Ontario

GUIDELINES

THE PLANNING ACT

Ministry of
Municipal Affairs
and Housing

Ontario

THE PLANNING ACT

GUIDELINE 1

Planning Advisory Committees

January 1983

1 INTRODUCTION

A major change introduced by the new Planning Act is the elimination of all planning areas and planning boards in southern Ontario. This was done in recognition of the principle that municipal planning involves the making of public policy which should be the responsibility of elected municipal councils who are accountable to the electorate for their decisions.

This guide is intended to explain to municipal councils the provisions of the new Planning Act which affect local planning administration. In particular, in that part of Ontario covered by upper-tier levels of government:

- Existing single municipal planning areas and boards are eliminated (section 72(1)). Also eliminated are joint planning areas and their boards, with the exception of those located in territorial districts, which are retained (sections 72(1) and 72(3)).

- Existing approved official plans for single municipal planning areas will remain in effect but may be amended or repealed in accordance with the provisions of the new Act (section 71(1)).

- Existing joint official plans, except county-wide plans, will be repealed after two years, unless continued in effect for a longer period by order of the Minister of Municipal Affairs and Housing (section 71(2)).

- The Minister may provide, by order, for the continuation of all or part of any joint official plan that would lapse in two years. In doing so, the Minister may allocate all or parts of the plan to the county or any constituent local municipality within a presently defined planning area (section 71(3)).

2 PLANNING BY ONE MUNICIPALITY

In the first instance, council is responsible for carrying out municipal planning. However, it may obtain assistance from a planning advisory committee appointed under section 8(1) of the new Act. This appointed committee serves a supporting and advisory role to council, which must make the final municipal decision on planning matters. Advisory committees may be created or dissolved at council's discretion and no approval of the Minister of Municipal Affairs and Housing is required.

The Planning Advisory Committee

Council is free to decide on the membership, functions and administrative details of the committee. There is no requirement for provincial approval of any matters relating to the committee (section 8(1)).

Membership

Council may appoint any number of persons to the committee for whatever periods of time are felt to be appropriate. Appointees may include members of council, municipal staff or any member of the public. The composition of the committee is left to the discretion of council (section 8(1)).

Functions

Council can assign any type of planning duty or duties to the committee. The following are examples of the types of functions which a committee could perform:

- providing council with recommendations on development proposals and zoning applications;
- providing council with recommendations on applications for official plan amendments;
- investigation of specific planning issues;
- the development of long term planning policies for council's consideration.

The functions assigned to a planning advisory committee likely will determine how long it will serve. For example, if a committee is assigned comprehensive planning functions, with the need for review and amendment of planning policy or procedures, it would likely serve a relatively long term. On the other hand, if a committee is appointed to advise on a specific issue or project, its term of office may end with the completion of that work. In either case, individual members of the committee serve for the length of time which council considers to be appropriate.

Administration

Council can provide the committee with financial, administrative and staff resources to perform its duties. It can also provide remuneration and expenses to members if it wishes (section 8(3)). In order to streamline the administrative process, council should establish rules and procedures for the committee and the reporting relationship between the committee, planning staff or consultant and council. Again, the province is not required to approve these internal arrangements.

3 PLANNING BY SEVERAL MUNICIPALITIES

Existing Joint Planning in Southern Ontario

Where joint planning is felt to be effective, participating municipalities have several items to consider:

- They may continue the arrangement by appointing a joint planning advisory committee to perform whatever functions the councils may define (section 8(2)), as discussed in this guide.
- They may request the Minister to provide, by order, for the continuation and ongoing administration of all or part of the joint official plan that otherwise would be repealed two years after the new Act comes into effect (section 71(3)).

Where participating municipalities do not wish to continue the joint planning exercise, again there are several items to be considered:

- Should the joint official plan be allowed to lapse after two years and new official plans initiated by each municipality?
- Should the Minister be asked to reassign the parts of the joint plan to become individual plans of the participating municipalities?

- How will the assets and liabilities of the existing joint planning board be disposed of, as required, among the participating municipalities? (Section 72(2) allows the Ontario Municipal Board to decide the matter if the municipalities cannot agree.)

The Joint Planning Advisory Committee

Municipalities who wish to carry out all or some of their planning co-operatively may do so. Recognizing that the co-ordination and administration of this task could be cumbersome for the councils involved, the new Act provides that they may appoint a joint planning advisory committee to assist them. As is the case with a single municipal committee, the councils are responsible for determining the details of the joint committee. These details include membership, functions and administration, and are defined by the councils through an agreement (section 8(2)).

Membership

As is the case for a single municipal committee, the councils may appoint any number of individuals for specified periods. The number of members representing each municipality may be detailed in the agreement. Members of council, municipal staff or any member of the public are eligible for appointment to the committee (section 8(2)).

Functions

The councils, by agreement, can request the committee to perform any type of planning function, including the following examples:

- recommendations on development and zoning applications;
- investigation of specific planning issues which are common to member municipalities;
- preparation of a proposed official plan or amendment for each municipality. In this instance, the plans should be suitable for adoption by each council, which must process the documents according to the procedures of section 17 of the new Act;
- the provision of recommendations on a wide range of planning matters affecting municipalities. This may involve everything from the review of development proposals to long range planning and policy development. In undertaking this type of function, the committee may need staff and administrative resources from participating municipalities.

Administration

Member councils may establish, by agreement, the financial, administrative and staff resources which they will provide to the joint committee. They may also, if they wish, agree to provide remuneration and expenses to members. If councils disagree on the apportionment of costs and services, there is no provision in the Act for appeal to any body to settle the matter.

Councils should also agree on the reporting or working relationship between the committee, planning staff or consultant and councils. If necessary, they may spell out the rules and procedures of the committee.

For further information contact any of the following offices of the Ministry of Municipal Affairs and Housing:

Community Planning Advisory Branch

Central Region
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Telephone: (416) 224-7635
ZENITH 52650

South East Region
244 Rideau Street
3rd Floor
Ottawa, Ontario
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Telephone: (613) 566-3801
ZENITH 52650

South West Region
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N7A 5A9
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TOLL FREE 1-800-265-4736

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3. Delegation of Minister's Authority

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THE PLANNING ACT

GUIDELINE 2

Local Planning in Northern Ontario

January 1983

1 INTRODUCTION

This guide is intended to explain the provisions of the new Planning Act which affect local planning administration in territorial districts.

The presence of unorganized territory coupled with the lack of a county or regional municipality means that there is no upper-tier of government to co-ordinate planning activities in territorial districts. For this reason, the new Planning Act retains the concept of joint planning, and provides for the establishment of planning areas and planning boards in the north. In addition, joint planning allows municipalities to pool their financial and administrative resources. The new Act provides for the continuation of existing joint planning areas and their boards.

The provisions of the new Planning Act which affect local planning administration in northern Ontario are:

- Existing single municipal planning areas and boards are eliminated (section 72(1)).
- Existing approved official plans for those single municipal planning areas remain in effect and are amended in accordance with the provisions of the new Act (section 71(1)).
- Those planning areas which consist of two or more municipalities, or include unorganized territory, or consist solely of unorganized territory, continue. The same applies to the planning boards for these areas (section 72(3)).
- Existing joint official plans remain in effect and are amended in accordance with the provisions of the new Act which are discussed briefly in section 3 of this guide.
- The former Act's provision for a designated municipality has been eliminated.
- The provisions of the former Act requiring a two-thirds majority of council to adopt a plan or amendment which was not supported by planning board has been eliminated. Also deleted is the provision which allowed the Minister of Municipal Affairs and Housing, before approving an amendment or repeal of a plan, to require a report from planning board.

2 PLANNING BY ONE MUNICIPALITY

Although council is responsible for carrying out planning activities, it may obtain assistance from a planning advisory committee appointed under section 8(1) of the new Act. This committee may be created and dissolved at council's discretion. Similarly, matters such as membership and functions are also established by council. The approval of the Minister is not required for any matters related to the committee.

For more detailed information, the Ministry has prepared a guide to planning advisory committees. This discusses the roles, functions and administrative aspects of a committee's operation which are available to councils when considering the appointment of a committee.

3 JOINT PLANNING

The new Act provides two options for joint planning activity in northern Ontario. The first is formal joint planning, which continues in much the same way as in the past through a planning area and planning board. As a second possibility, two or more municipalities may participate in a planning exercise by appointing a joint planning advisory committee.

Joint Planning Areas and Boards

The new Act provides for the continuation of existing joint planning areas (section 72) and establishment of new joint planning areas in northern Ontario (section 9).

The Minister of Municipal Affairs and Housing retains the power to define a joint planning area and to establish a joint planning board to carry out the functions described in the Act. Existing northern joint planning areas will continue and will find only minor changes to their current practice. These are discussed in this guide, and cover items such as the term of office of planning board members, the responsibilities of the municipal councils, and new responsibilities for the planning board in unorganized areas.

Existing Joint Planning Areas in Northern Ontario

Currently defined planning areas and their official plans are retained under the new Act. As well, the planning boards remain intact unless changes are made by the Minister. Under section 72(5) of the Act, members of existing joint planning boards will remain in office until the expiry of the term of the council which appointed them and until their successors have been appointed. In the cases where unorganized territory is included in a joint planning area, the members representing unorganized areas will continue their appointment for their originally prescribed term and until their successors are appointed by the Minister.

Definition of a Planning Area

The Minister may define and name a planning area involving one or more municipalities or unorganized territory. Section 9(1) of the new Act states that planning areas may be comprised of:

- the whole of two or more municipalities within a territorial district, or
- the whole of one or more municipalities and unorganized territory.

The Minister may also define and name a planning area consisting only of unorganized territory and appoint a planning board for that area (section 10).

Establishment and Composition of a Planning Board

Under the former Act, the council of the designated municipality was responsible for the appointment of a planning board for the joint planning area. Under section 9(2) of the new Act, the Minister is responsible for establishing and naming a planning board for the planning area. The Minister also specifies the number of members each municipality may appoint to the board and the number of unorganized area representatives, if any, to be appointed. The council of each municipality then appoints their representatives to the board under section 9(3). No provincial approval of these appointments is needed. However, the Minister continues to appoint the representatives for unorganized areas.

Term of Office

The term of office of members of planning boards varies according to who appoints them (section 9(4)). Members of the board appointed by the Minister hold office for the term specified in their appointment. Members of the board appointed by a municipal council hold office for the same term as the council that appointed them. In either case, the members hold office until their successors are appointed. After the initial appointments, each new council is responsible for making its appointments as soon as possible after assuming its responsibilities.

Responsibilities of Council and Planning Board

A plan or amendment prepared by a planning board and approved by a majority of the members of the board must be submitted to the council of each municipality to which the plan or amendment applies (section 18(1)). It is then council's responsibility to hold the public meeting and consult agencies as required by sections 17(2) to 17(6) of the Act. Each council may then adopt the plan by by-law. Within 15 days after adoption, the municipal clerk must give written notice of the adoption under section 17(8) and send a certified copy of the adopting by-law to the planning board's secretary-treasurer (section 18(3)). When the secretary-treasurer has received copies of the adopting by-law from a majority of the councils to which the plan or amendment was submitted, he forwards the plan to the Minister for approval (section 18(4)).

In this process, section 17(7) of the Act requires that after adopting the plan, each council is responsible for sending certain information and material to the Minister. To ease the administration of this responsibility, the planning board and councils should consider an arrangement where this information is sent from the councils to the secretary-treasurer so that a complete record can be submitted to the Minister at one time.

The Act also allows a municipality within a planning area to initiate an amendment to, or repeal of, an official plan as it applies to that municipality. Section 21(1) states that in this situation, the public involvement, adoption and notice responsibilities must be met. Although a council may act on its own under this provision, planning boards should be involved as much as possible.

For that part of the planning area which consists of unorganized territory, section 18(5) of the Act provides that planning board acts as though it were the council of a municipality and the secretary-treasurer were the clerk. This is particularly important for the public involvement, plan adoption and notice provisions of section 17. In the case of a planning area consisting solely of unorganized territory, section 19 discusses the board's responsibilities for consulting the public and agencies.

Joint Planning Advisory Committee

As a general principle, the appointment of a planning board is an appropriate means of dealing with planning issues in the north - particularly when those issues affect more than one municipality or involve unorganized territory. In these situations, the board provides a broader perspective to the issues and plays a co-ordinating role in developing solutions to planning problems.

However, there will be some circumstances where two or more municipalities may wish to become involved in a less formal arrangement. In this situation the new Act allows the municipalities to work together through the appointment of a joint planning advisory committee.

Before northern municipalities appoint a committee they should consider whether or not the committee's responsibilities and the planning issues affect unorganized territory. If they do, a joint planning advisory committee would not be appropriate. In order to ensure representation of unorganized territory, consideration should be given to the merits of a planning board, particularly where an ongoing advisory role is desired. In most situations the appointment of a planning board would be more appropriate and should be given the first consideration.

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TOLL FREE 1-800-461-1193

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435 James Street South
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Plans and Administration Branch – North and East

56 Wellesley Street West
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THE PLANNING ACT

GUIDELINE 3

Delegation of Minister's Authority

January 1983

1 INTRODUCTION

A basic objective of the new Planning Act is increased local responsibility in municipal planning. To accomplish this, the Ministry intends to broaden delegation of the Minister's authority so that more responsibility for land use planning can be exercised at the local level.

The Ministry will continue the current practise of delegating authority to qualifying upper-tier municipalities on request, and will extend this to include cities outside regional municipalities and separated towns when the new Act is in force. For the first year with the new Act the Ministry will not delegate beyond these municipalities; similarly, in northern Ontario the Ministry is prepared to consider only delegation of the Minister's consent approval authority. During this period the possibility of such further delegation will be considered by the Ministry through discussions with municipal officials.

Those municipalities which have been delegated any of the Minister's authority under the former Planning Act will continue to exercise that authority unless otherwise arranged. Similarly, those planning boards in northern Ontario which have been delegated consent approval responsibility will continue unless prevented from doing so by the new Act.

2 BACKGROUND

In stating the desire to expand delegation of the Minister's powers, the Ministry accepts that the actions of a lower level of government should be supervised only to the extent required to protect the interests of the higher level. Consequently, the Province has taken steps to define its interests in local land use planning. By including a general statement of provincial interests in section 2 of the new Planning Act and by increasing reliance on policy statements and planning guidelines to establish provincial concerns, the Province achieves this end. Accordingly, municipalities with delegated authority will be able to exercise it with greater certainty of the interests of the Provincial Government.

3 MINISTER'S POWERS WHICH MAY BE DELEGATED

Section 4 of the new Planning Act allows the Minister to delegate any of his authority, except the authority to approve its own official plan and amendments, to a municipal council. Once delegation occurs, the municipality is responsible for all matters normally dealt with by the Minister, including the referral of any matter to the Ontario Municipal Board.

The Minister may also delegate under section 4(2) of the Act any of his authority, with the exception of the authority to approve its official plan or amendments, to the planning board of any planning area in a territorial district. Once delegation occurs, the planning board has the same authority as a delegated municipality, including the referral of any matter to the Ontario Municipal Board.

Where a municipality meets the delegation criteria outlined in this guideline, the following responsibilities may be delegated:

- **approval of local official plans and amendments** – Only upper-tier municipalities are eligible to receive the authority to approve local official plans and amendments.

- **approval of plans of subdivision and condominium** – Any municipality or planning board is eligible to receive the authority to approve plans of subdivision and condominium. Delegation would include the authority to approve part-lot control by-laws.

- **granting of consents** – In northern Ontario a planning board could receive the authority to grant land severances. Similarly, it would be responsible for all matters normally dealt with by the Minister, including the referral of any matter to the Ontario Municipal Board.

4 CRITERIA FOR DELEGATING MINISTER'S AUTHORITY

To receive delegated planning authority, a municipality must have:

- appropriate official plan coverage;

- permanent professional planning staff;

- satisfactory administrative procedures; and

- adequate financial resources to carry out the responsibility.

Some variations in applying these criteria may occur in the delegation of consent granting authority in northern Ontario. These are discussed in section 7 of this guide.

The specific application of these criteria to the powers that may be delegated is explained in the following sections.

5 APPROVAL OF OFFICIAL PLANS AND AMENDMENTS

Delegation of this authority will allow upper-tier municipalities to approve local municipal official plans and amendments. Delegation criteria are:

Appropriate official plan coverage

An approved upper-tier official plan must be in place with policies covering all of each local municipality. The plan must be current, that is, either approved within the last five years or reviewed and updated within that period. As well, the plan should adequately reflect current provincial policies.

Where the upper-tier plan does not cover all of each local municipality it will not be deemed to meet this criterion until it is amended to provide complete coverage. In areas of extensive joint plan coverage, the upper-tier municipality may choose to extract policies from these plans and consolidate them as part of a single upper-tier plan. The upper-tier plan should include policies and implementation measures to effectively guide the preparation, review, and approval of local official plans.

Permanent professional planning staff

To approve local official plans, an upper-tier municipality must have its own permanent professional planning staff. The minimum requirement is one permanently employed full time planner, with experience comparable to that needed to qualify for membership in the Canadian Institute of Planners, plus access to appropriate support staff. The number of staff needed will vary depending on the size of the municipality, the likely number of applications and the demands on staff time by other activities in the municipality's planning program. Planning consultants are not considered an appropriate alternative to permanent municipal staff for the purpose of this criterion.

Satisfactory administrative procedures

To assume delegated authority for approving official plans and amendments, municipalities must adopt suitable administrative procedures. These procedures should detail how applications will be considered by the delegated council and its staff. Ministry staff are available to advise individual municipalities on their procedures.

Adequate financial resources

Municipalities requesting delegation of this authority must show a commitment to provide the financial resources required to perform the delegated responsibility. No additional transfer of funds from the Ministry will take place when delegation occurs.

6 APPROVAL OF PLANS OF SUBDIVISION AND CONDOMINIUM

Upper-tier municipalities, cities outside of regional municipalities and separated towns will qualify initially for delegation of the authority to approve plans of subdivision and condominium once the Act is in place. As with other powers which may be delegated, the following criteria must be met:

Official plan coverage

A municipality must have an approved official plan. The official plan must be current, that is, either approved within the last five years or reviewed and amended, if necessary, within that period. The official plan must contain policies that provide a clear and direct policy base for reviewing development applications.

Permanent professional planning staff

To qualify for delegation of subdivision and condominium approval authority, a municipality must have its own permanent professional planning staff. The requirements for this criterion are the same as stated in section 5.

Satisfactory administrative procedures

As with delegation of official plan approvals, municipalities must adopt suitable administrative procedures for this function before delegation. Ministry staff are available to advise individual municipalities on procedures before delegation.

Adequate financial resources

As with the delegation of the authority to approve local official plans, the acceptance of delegated subdivision and/or condominium approval authority includes assuming the costs of administering the delegated function. (see section 5)

7 CONSENT GRANTING IN NORTHERN ONTARIO

Under section 49 of the new Act, consent granting authority in northern Ontario is assigned to the Minister of Municipal Affairs and Housing and the councils of the Regional Municipality of Sudbury and four cities (North Bay, Sault Ste. Marie, Thunder Bay, and Timmins). As noted earlier, section 4 of the Act allows the Minister to delegate his authority to either a municipal council or a planning board, although preference will be given to the planning boards. Before delegating, the Ministry will apply the criterion of a current official plan with appropriate policies. Secondly, because the Act and the associated rules of procedure regulate all consent granting authorities other than the Minister, the adoption of administrative procedures is not required before delegation occurs. However, ministry staff are available to provide advice on internal operating procedures.

Adequate staff resources must be available to carry out the consent granting function, but this need not include a professional planner. The municipality or planning board should demonstrate that a staff person has been assigned to provide administrative support for the consent approval function. This person must be familiar with the rules of procedure for consent applications and have sound working knowledge of the relevant official plan(s) and zoning by-laws or Minister's orders. Access to appropriate support staff must also be provided.

Some northern Ontario planning areas include townships without municipal organization. Where a plannng board in such an area has been delegated consent granting authority, financial assistance is available through the Ministry's Planning Administration Grants Program. Assistance is provided for the processing of consent applications in the unorganized portion of the planning area. However, those municipalities contemplating consent delegation must demonstrate a commitment to provide adequate financial resources to administer the responsibility.

8 COMMUNITY IMPROVEMENT PLANS

Unlike other of the Minister's responsibilities under the Planning Act, the Ministry does not intend to delegate the authority to approve community improvement plans at this time. There are two reasons for this decision. One is that the approval responsibilities contained in section 28 have been streamlined as much as possible by assigning them to the most appropriate level of government. For example the Minister's authority under the former Act to approve a by-law designating a redevelopment area has been eliminated, which puts more responsibility with the municipal council. The other is the Ministry's experience that most of the community improvement activity involves financial assistance from senior levels of government. In this situation the Ministry is not prepared to release the authority to commit provincial funds to another level of government.

9 THE DELEGATION PROCESS

A request for delegation of any of the Minister's authority must be made to the Minister, and be accompanied by a council resolution as well as a letter addressing the criteria.

On receipt of a delegation request, ministry staff will contact the municipality or planning board to discuss compliance with the delegation criteria. When the Minister is satisfied that all of the criteria have been met, he will issue an order which has the force of law under the Planning Act. Upon delegation, all powers and responsibilities of the Minister, including the referral of any matter to the Ontario Municipal Board, rest with the delegated authority.

The Minister, by order under section 4(4) of the Act, may withdraw a delegated power for either a specific application or all applications. If authority is withdrawn, the Minister must give a written explanation of the reasons for such action.

10 FURTHER DELEGATION BY MUNICIPALITIES

Once a power has been delegated by the Minister, section 5(1) of the Act allows a municipal council to further delegate all or part of its responsibilities for planning matters, other than official plan approvals, to a committee of council or an appointed official directly responsible to council. As well, section 5(2) allows a council which has been delegated consent approvals by the Minister to delegate further to a committee of adjustment. Where council wishes to delegate its authority, section 5(1) of the Act requires that this be done by by-law, and that the further delegation is subject to the same conditions as may have been imposed on council by the Minister. In its delegation, council should stipulate its conditions, the scope of the power being delegated, and the procedures to be followed by the delegate. As well, reporting relationships between the committee or official and council should be established.

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THE PLANNING ACT

GUIDELINE 4

Community Improvement

March 1983

1 INTRODUCTION

This guideline is intended to outline the community improvement planning process established under the new Planning Act. The legislative procedures, policy requirements and implementation procedures are described with particular emphasis placed on the changes to the existing system.

Community improvement may be very broadly defined as encompassing all those activities, both public and private, which maintain, rehabilitate and redevelop the existing physical environment to accommodate the social and economic priorities within the community.

While "community improvement" is by no means a new phenomenon, the importance of these activities, in terms of both policies and programs at the provincial and municipal levels, has increased significantly as a result of today's economic conditions. Slow growth, volatile interest rates and limited performance in the housing, manufacturing and resource industries have focused public attention on job creation initiatives and on the development and maintenance of an attractive physical atmosphere for private investment. Public investment in the improvement of community services and facilities does provide short and long-term employment opportunities and will create a climate of confidence for private sector investors.

At the same time, declining public sector revenues and increasing demands for services are requiring all levels of government to plan for maximum efficiency in the use of **existing** public services and facilities. Improving the public infrastructure where deficiencies are identified will increasingly be considered a priority in the allocation of limited financial resources.

Under today's conditions, local public initiatives will be oriented to economic development and redevelopment, job creation, strengthening the local tax base, and ensuring value for dollar in public expenditures. As a result, community improvement policies and programs will become a basic element in the municipal financial and land use planning processes.

In terms of land use planning at the municipal level, it has long been understood that the causes of physical deterioration in residential, commercial and industrial areas can be largely attributed to land use, transportation and socio-economic issues which affect the community as a whole. For example, older residential neighbourhoods are often adversely affected by inappropriate or noxious land uses while the viability of central business areas can be undermined by commercial policies which favour suburban mall development.

The solutions developed to address these problems must, as a result, be part of a **comprehensive land use planning program**, if public and private investments in community improvement are to achieve full potential.

Community improvement has been identified by the Ministry of Municipal Affairs and Housing as a major area of policy and program initiative in the future. This is reflected in the legislative provisions for community improvement which provide municipalities with the ability to plan and implement a co-ordinated improvement program.

2 THE LEGISLATION

The community improvement provisions of the new Planning Act are, in most cases, identical to the "redevelopment provisions" which have been part of the Act for the last thirty years. Over this period, these enabling legislative provisions have provided municipalities with broad and flexible powers to undertake comprehensive redevelopment or community improvement programs. This authority includes the power to acquire land, to construct or repair buildings, to make grants or loans to land owners and to enter into agreements with senior levels of government and the private sector for the purpose of implementing redevelopment plans. Without these powers, municipalities would have been unable to carry out the type of neighbourhood and core area improvement projects which have been undertaken across the province.

The new community improvement section retains these flexible powers and incorporates changes designed to improve and streamline the process. The major changes include:

- The entire process will be referred to as "community improvement" to reflect a broader range of activities than commonly associated with the term "redevelopment". This change in terminology is reflected throughout section 28 so that "redevelopment areas" become "community improvement project areas" and "redevelopment plans" become "community improvement plans".

- The need to integrate community improvement policies with the overall municipal planning process has been legislated through provisions in section 28(2) of the new Act. This section requires that the municipal official plan contain **"provisions relating to community improvement in the municipality"** as a prerequisite for the use of the remainder of the legislative provisions covering community improvement. As a result of this section, municipalities will be required to have appropriate community improvement policies in their official plans in order to define community improvement project areas and to be eligible to participate in community improvement grant and loan programs provided by the Ministry.

- Ministerial approval will no longer be required for the by-law establishing a community improvement project area; or for the acquisition and preparation of land, the rehabilitation of buildings and the disposition of land, **after** the Minister has approved the community improvement plan.

- The public notice, meeting, adoption and appeal procedures set out for official plans in section 17 of the new Act will apply to community improvement plans **and** amendments to these plans.

In addition to these changes in section 28, the new Act incorporates the following revisions:

- All of the legislative provisions related to "community improvement" have been brought together under Part IV of the new Act. This part includes the provisions of section 28 as well as provisions related to the execution of agreements (section 30), the enactment and enforcement of property standards by-laws (sections 31 and 32) and the designation of demolition control areas (section 33).

- Section 74 of the new Act provides for the continuation of matters commenced under the current legislation. Insofar as community improvement is concerned, section 74(3)(c) allows redevelopment activities to continue under section 22 of the current Act in any area designated as a redevelopment area (section 22(2)) prior to August 1, 1983. This provides a transition period for municipalities to prepare the community improvement policies required under the new Act. It is anticipated, however, that a final "termination" date for matters under the current Act will be included in section 74(3)(c) by amendment at some point in the future. This is deemed necessary to avoid the confusion that would ensue if municipalities had to deal with two different sets of legislative provisions indefinitely.

The community improvement process under the new Planning Act will involve the following steps:

Step 1 Preparation and approval of official plan policies relating to community improvement (described in Section 3).

Step 2 Designation of a community improvement project area by the municipality.

Step 3 Preparation and approval of community improvement plans in conformity with the official plan policies (described in Section 4).

Step 4 Implementation through encouragement of private redevelopment and rehabilitation, enactment and enforcement of municipal by-laws, and expenditure of funds on public works.

In summary, the new Planning Act maintains the legislative provisions which provide municipalities with the authority to undertake a broad range of community improvement activities. At the same time, however, the Act recognizes the need to co-ordinate these activities through comprehensive policies established in the official plan.

3 COMMUNITY IMPROVEMENT POLICIES

The inclusion of community improvement policies in the official plan is, as mentioned previously, a requirement of the Planning Act. This reflects the necessity of integrating community improvement activities with the overall municipal planning process as one way of ensuring co-ordination and optimizing results.

Specifically, the development of comprehensive community improvement policies will enable municipalities to:

- implement improvements in a planned, co-ordinated manner reflecting local problems, priorities and financial resources, and to optimize results in terms of municipal capital expenditures;

- ensure that private investment in redevelopment and infill proposals is considered and evaluated in the context of the overall community interest;

- co-ordinate the application of municipal by-laws (zoning, property standards, business improvement areas) in achieving comprehensive results;

- maximize the use of funding from various federal and provincial agencies.

The actual content of a "community improvement policy" will vary since no two municipalities are alike in terms of their history, location, size, population characteristics and economic base. These policies must, as a result, identify the problems, the opportunities and the solutions appropriate to individual municipal situations.

In general terms, however, a community improvement policy should cover the following items:

(i) **A statement of municipal improvement goals and objectives.**

(ii) **Criteria for the selection of areas in need of community improvement** – In a residential neighbourhood for example, this could include such things as, lack of or inadequate parks, deficiencies in the sewer and water system, poor housing and building conditions, conflicting land uses, etc. In a commercial area, criteria could be broadened to include

deficiencies such as lack of offstreet parking and other amenities conducive to a pleasant shopping environment, poor mix of uses (inappropriate zoning) and so on. Similar criteria should be developed for other major land use categories as well.

(iii) **Delineation of areas in need of community improvement** – The improvement areas defined as a result of the application of the criteria developed in (ii) above should be portrayed on a map schedule. This would afford the public the opportunity of knowing which areas require improvement and what type of improvements might be made.

(iv) **Phasing of improvements** – If feasible, policies on phasing improvement activities should be included. This would permit a logical sequence of events to occur without unnecessary hardship on the residents and business community. It would also permit the municipality to priorize by doing the most urgent improvements first in accordance with the municipal funds available.

(v) **Methods of implementation** – The ways and means through which council intends to achieve its overall community improvement objectives should be stated. The tools of implementation might include:

- designation of community improvement project areas and preparation of community improvement plans;
- utilization of public funds through a variety of municipal, provincial and federal programs;
- acquisition of land;
- passing and enforcing a property standards by-law;
- considering a more relaxed approach to zoning by providing for mixed land uses and allowing for bonus provisions for infill development;
- encouragement of rehabilitation;
- establishment of a Business Improvement Area;
- application of the Ontario Heritage Act in terms of both the designation of buildings and heritage districts.

Since the development of these policies is a new legislative requirement, it is anticipated that most existing municipal offical plans will **not** address community improvement issues in the comprehensive manner outlined above. It will be necessary, therefore, for municipalities to incorporate the appropriate policies either by amendment to their official plans or as part of an overall official plan review. Municipalities preparing new official plans should include community improvement policies as part of that process.

Finally, since most improvement activities will be the responsibility of the lower-tier municipalities, the preceding discussion is directed towards the lower rather than the upper-tier (regional/county) official plan. However upper-tier municipalities may wish to *include policies in their official plans which support local community improvement policies* and which may address Regional/County responsibilities such as roads, parks and other services or facilities under their jurisdiction. In all cases upper and lower-tier official plan policies on community improvement should be complementary.

4 COMMUNITY IMPROVEMENT PLANS

Community improvement plans will be a primary vehicle for the implementation of the community improvement policies established in the official plan. These plans, when developed and applied in concert with appropriate zoning, property standards and BIA by-laws and when augmented by public investment, will provide a municipality with a full range of powers to implement community improvement objectives.

Community improvement plans, while similar in concept and scope to redevelopment plans, should be designed to reflect the new legislation. This is particularly important when considering the implications of the expanded public notice, meeting and appeal provisions of the new Act on the content of these plans. In the past, redevelopment plans have included a great deal of background information, as well as specific detail on improvement projects, costs and budgets. Community improvement plans in the future should only contain information related to the specific projects, and should be designed to allow sufficient flexibility for minor changes in projects and budgets without formal amendment. Major changes to projects and shifts in budget should, of course, be implemented through an amendment to the plan.

Generally, the community improvement plan should include:

- Reasons for the selection of the community improvement project area.
- Boundary of the area (map and description).
- Proposed land uses (map and description).
- Properties to be acquired (map and description).
- Proposed improvements to roads, sewers, water mains, etc., and other utilities and community facilities.
- Properties to be rehabilitated (map and description).
- Estimated costs of the proposed program if provincial grant or loan funds are involved.
- Rehousing and relocation program.
- Means of financing, staging and administration.
- A flexibility clause outlining circumstances under which changes to projects and costs can be implemented without amendment.

In addition, the plan should be supported by the following background or appendix material:

- Existing land uses (map and description).
- Existing condition of buildings (map and description).
- Existing social conditions.
- In the case of non-residential areas, existing economic conditions.
- Existing conditions of services and community facilities.
- Evidence of citizen involvement during the preparation of the community improvement plan.

It should be noted that community improvement plans must provide specific information on public land acquisition and identify lands to be acquired. This is essential since Ministerial approval of land acquisition will not be required (section 28(3)) and, as such, the property owners' only right to appeal the principle of acquisition will be through the community improvement plan. If properties to be acquired cannot be identified when the plan is prepared, acquisition will require amendment to the plan.

Finally, section 28(5) of the new Act gives the Minister the authority to deem the official plan provisions on community improvement to be a community improvement plan for the purposes of implementation. This section will have very limited application and *will only be used in situations where the policy is detailed enough to meet the requirements for a community improvement plan as referred to earlier in this section.* An example of such a situation would be a small municipality which has a single project area ready for immediate implementation.

For further information on the community improvement legislation, policies and plans, contact the following office of the Ministry of Municipal Affairs and Housing:

Community Renewal Branch
13th Floor
777 Bay Street
Toronto, Ontario
M5G 2E5
Telephone No.: (416) 585-6013

Additional copies of this publication and the following guidelines on the Planning Act are available directly from: Ontario Government Bookstore, 880 Bay St., Toronto, or write to: Ministry of Government Services, Publications Service, 880 Bay St., Toronto, M7A 1N8, (416) 965-6015.

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3. Delegation of Minister's Authority (January 1983)
4. Community Improvement (March 1983)
5. Working with the New Regulations (August 1983)
6. Official Plan Policies on Public Notice (August 1983)
7. Planning Application Fees (August 1983)
8. Zoning and Other Land Use Controls (October 1983)

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THE PLANNING ACT

GUIDELINE 5

Working with the New Regulations

August 1983

1 INTRODUCTION

Under the Planning Act, 1983, the Lieutenant Governor in Council has made regulations on these matters dealt with in the mentioned sections of the Act:

- Notice requirements for public meetings on official plans and amendments, community improvement plans and amendments under sections 17 and 28 respectively.

- Notice requirements for public meetings and council decisions on zoning by-laws under sections 34, 35, 36 and 38 (e.g. normal zoning by-laws, the enactment but not the removal of holding by-laws, the enactment and amendment of bonus and temporary use by-laws respectively).

- Notice requirements for zoning by-laws removing holding provisions under section 35.

- Notice requirements for the imposition of interim control by-laws under section 37.

- Rules of procedure for consent applications under section 52.

- Rules of procedure for applications for minor variances to by-laws under section 44.

The regulations contain only the statements needed to make them operative under the Planning Act. This is appropriate since regulations set out requirements rather than provide advice or interpretation. Sharing practical advice and intended interpretations of the regulations in this guideline will assist municipalities in working with the regulations.

2 PRINCIPLES

Five principles apply to most of the regulations:

- **Minimum requirements** – Where they deal with notifying the public of planning matters, the regulations set the minimum requirements to be met by municipalities. This principle applies unless approved official plan policies set out lesser requirements in procedures for informing and securing the views of the public on proposed official plan and/or zoning matters. "Guideline 6: Official Plan Policies on Public Notice" is available to help municipalities prepare official plan policies on such alternative public involvement procedures.

- **Fair hearing** – A fair opportunity must be given to the public to make representation on any by-law where a hearing is required by the Planning Act. Even though council may have given notice of a public meeting to discuss a proposed by-law, procedural by-laws cannot be used to ensure that all representations can be made at one meeting. If everyone cannot be heard at one meeting a further meeting must be held. Council would not have to comply with the notice requirements of the regulations for such a subsequent meeting but could simply notify those attending the first meeting.

- **Notice within the same municipal government** – The requirement that notice of consent and minor variance applications be sent to other specific employees in the same municipality has been discontinued in the rules of procedure for these applications since this is a matter of internal municipal administration. This principle has also been applied to the new regulations that did not exist under the former Act.

- **Agencies and proposed official plan and zoning matters** – The regulations identify the **persons** to be notified of the public meeting before official plans, community improvement plans, zoning by-laws and their amendments are adopted. They do not identify the agencies that should be informed of this meeting or otherwise consulted. Sections 17(5) and 34(15) of the new Planning Act leave to the discretion of council such notice and consultation with ministries of the provincial and federal government as well as other agencies, boards, authorities or commissions. To ensure that official plan and zoning matters recognize the concerns of these bodies as early as possible, municipalities should decide what agencies are to be consulted and how they are to be involved in proposed official plan, community improvement plan and zoning matters.

- **Applications made before August 1, 1983** – It is critical to determine the day the public makes applications for consent and minor variances and amendments to official plans and zoning by-laws since applications made before the August 1, 1983 proclamation date of the Planning Act must be continued and disposed of under the former Act.

  Applications are considered to have been made when they leave the control of the applicant. Where applications are mailed, the postmark is considered to be evidence of this date. Where applications are delivered to the municipality they are considered to have been made on that date. Accurate recording of this date is clearly important.

  Applications received before August 1, 1983 that remain incomplete at that date are not considered applications made under the former Act. The day such applications are considered to be made, for the purpose of determining whether the process of the Planning Act, 1983 or the former Act applies, is the day these applications are made in a completed form.

  Those official plans, community improvement plans, zoning by-laws and their amendments adopted by council before August 1st must be continued and finally disposed of under the former Act. Those documents which have not progressed to the point of council adoption by August 1st are subject to the provisions of the new Act – including the regulations for notice and the meeting of council.

  In order to determine whether a specific application or proposal is subject to the former or the new Planning Act, section 74 of the new Act should be reviewed.

3 NOTICE REQUIREMENTS: OFFICIAL PLANS

This new regulation specifies **persons** the municipality must notify, at least 30 calendar days in advance, of the public meeting held by council before adopting an official plan, community improvement plan, or amendment to either one. It also sets out the **manner** these persons are to be given notice. These requirements apply unless the municipality has approved official plan policies to substitute for all or part of the regulation.

Persons notified – The **persons** to be notified are assessed owners of land within the area covered by the plan or amendment and within 120 metres of that area. If a plan or amendment covers all of a municipality, notice still must be given to owners of land assessed within 120 metres of the plan or amendment area, even though they are in neighbouring municipalities. Further, those persons who have asked the clerk in writing, with a return address, to be given notice of the meeting on a **specific** proposed plan or amendment are to be given that notice by prepaid first class mail or personal service.

Notice of the meeting does not have to be sent to persons who have made a general request for any notice that might affect them but have not referred to the specific plan or amendment. For example, notice would not be required as a result of a request for notice of all official plan amendments which permit a particular land use or apply within a general area. Requiring the municipality to honour such requests would unreasonably burden the clerk. A municipality may honour general requests for notice but this is not required by the Planning Act or this regulation. Where specific requests are received, the municipality must keep them on record for use should the specific plan or amendment be the subject of a meeting by council.

Manner of Notice – Three ways of giving notice of the public meeting held by council are specified:

- "publication in a newspaper" means publishing a notice at least once in a newspaper published at least weekly. The newspaper must have, in the clerk's opinion, sufficiently general circulation in the area of the proposed plan or amendment to give the public reasonable notice of the meeting. The newspaper must be a printed publication in sheet form intended for general circulation and containing largely news and current events of general interest. The newspaper used must be sold to the public and regular subscribers on a bona fide subscription list. The notice requirements would be complied with only after the notice of the meeting has appeared in the newspaper used. This means that the last newspaper notice (if there is more than one) must appear not later than the 30 calendar days before the public meeting, as required by the Act – unless there is an official plan policy setting out a lesser notice period.

- "personal service" means delivery in person directly to the person identified as the addressee of the notice. This level of service can be achieved by municipal employees or commercial couriers. One test of whether personal service has been properly achieved is that the person giving the notice would be able to swear an affidavit that they personally identified the recipient as the addressee and gave them the notice directly. As with publishing in a newspaper, the notice requirements would be complied with only after the last notice has been personally served.

- "prepaid first class mail", the third way of giving notice of the required public meeting, is self-explanatory. As with the other two methods, notice requirements would be complied with only after the last notice has been properly mailed.

Combinations of the three possible methods may be used to comply with the notice requirements.

These points should also be considered before a council or planning board chooses an approach for issuing notice of a public meeting on a proposed plan or amendment:

- Council can, in a by-law under section 106 of the Municipal Act, appoint a committee of council (**not** staff or a planning advisory committee) to hold the public meeting required on a proposed plan or amendment. The by-law would empower the committee to hold the required meeting and the committee must report in writing to council before council makes a decision on adopting the plan or amendment. The committee would not have to be a quorum of council but it should consist of two or more council members.

- The required public meeting does not have to be the **only** public meeting held on the plan or amendment. A planning advisory committee, established under section 8 of the Act, or staff could hold public meetings on proposed plans and amendments. However, such meeting(s) would not fulfill the requirements of the Act for a public meeting held by council under section 17. The only exception to this is where a planning advisory committee contains council members and those council members are appointed as a committee of council under section 106 of the Municipal Act.

- The Planning Act requires "adequate information" to be made available to the public on the plan or amendment. This includes all material council considers relevant and may include a draft of the plan or amendment if one is available. Council may wish to make this information available at the municipal offices or public libraries or it may wish to hold "open houses". Since the Planning Act also requires "adequate information" to be available to agencies consulted at the discretion of council, the same information should be provided in both cases.

- With joint planning boards in northern Ontario, responsibility for giving notice of and holding the required public meeting depends on the structure of the planning area. In a joint planning area of two or more municipalities, each council must give notice of and hold its public meeting on a parent plan document. Notices of these meetings and the meetings themselves can be combined by the councils involved to reduce costs and administration. Where an amendment is being made that affects only one municipality, only that municipal council need give notice of and hold the public meeting.

  Where the planning area contains one or more municipalities and unorganized territory, the municipal council or councils give notice of and hold the public meeting for the organized area while the planning board performs this function for the unorganized area. In this situation, section 18(5) of the Act provides that the planning board acts as if it were the council and the secretary-treasurer acts as if he were the clerk. The public meetings to be held by the council(s) involved and the meeting to be held by the planning board can be combined provided that notice is properly given and representatives of both the planning board and council(s) are present.

- There is no prescribed form for giving notice of the required public meeting but a sample notice is included as Appendix 1 to this guideline.

- The requirements for giving notice of council's adoption of a plan or amendment are set out in section 17(8) of the Planning Act, and are **not** prescribed in a regulation.

4 NOTICE REQUIREMENTS: ZONING BY-LAWS

This regulation sets out the **persons** the municipality must notify, at least 30 calendar days in advance, of the public meeting held by council before it decides to adopt a zoning by-law or amendment. It also identifies the **persons and agencies** that the municipality must notify if council passes a by-law or amendment and sets out the **form** of this notice. The **manner** in which each of the two types of notice is to be given is also specified. These requirements apply unless the municipality has approved official plan policies to substitute for all or part of the regulation which prescribe the manner and persons to be notified of the public meeting.

Notice of the public meeting – The regulation requires that notice of the public meeting be given by one of three methods:

- publication in a newspaper;

- prepaid first class mail or personal service to all persons, within the area of the proposed by-law and within 120 metres of this area, as shown on the last revised assessment roll.

- prepaid first class mail or personal service to all land owners, within the area of the proposed by-law and within 120 metres of this area, as shown on the last revised assessment roll **and** by posting a sign on each property affected by the proposed by-law or, where this is impractical, at a nearby location chosen by the clerk.

Notice of the adoption of the by-law – Those **persons and agencies** to be notified after council passes a zoning by-law or amendment are covered by section 2 of the regulation, and should be self-explanatory. The list of agencies to be notified is substantially the same as set out in the Ontario Municipal Board procedures under the former Act. For the purpose of notifying the Ministry of Municipal Affairs and Housing as required in section 2(2)(k) a map showing the areas of jurisdiction of the Directors of the Plans Administration Branches, Central and Southwest and North and East is included as Appendix 2.

The **manner** of giving notice of the by-law's adoption can be by one of two methods: either (i) publication in a newspaper, or (ii) by prepaid first class mail or personal service to land owners in the area of the by-law and within 120 metres. As well, those persons who have asked the clerk in writing, with a return address, for notice of passing of the by-law or amendment are to be sent this notice by prepaid first class mail or personal service. All of the agencies to be notified of the passing of by-laws and amendments are also to be given notice by prepaid first class mail or personal service. The clerk can use combinations of these manners to comply with the notice requirements.

Form of Notice – The **form** of the notice to be given where council passes a zoning by-law or amendment is contained in the regulation.

Form 1 consists of an explanatory text and a key map. It is to be completed for all zoning by-laws and amendments passed, except for amendments to zoning by-laws to remove the holding symbol. The form is to be sent to all persons and agencies who are to receive notice of the passing of the by-law or amendment. Its contents are straightforward as set out in the form produced as part of the regulation. Where the zoning by-law is short it can be included as well as the note explaining the purpose and effect of the by-law.

The following points are important in effectively using the new process for enacting by-laws and amendments:

- The former Planning Act provided two ways for zoning by-laws to come into effect, whereas the new Act establishes a single method: a by-law comes into effect without the OMB's approval provided public notice, as prescribed by the regulation, was given and no appeals to the by-law were received. This has several important implications:

  - The new Planning Act provides for the OMB to require specific information or material where a notice of appeal of a by-law causes an OMB hearing. The OMB will also specify procedures to be followed in notifying persons and agencies of hearings on appealed zoning by-law matters, as now occurs.

  - The Planning Act requires that the notice of passing of all zoning by-laws and amendments be completed within fifteen calendar days of council giving the by-law third reading. Given the form that notice takes, as described earlier, early preparation for issuing this notice can simplify the work to be done after third reading of the by-law. For example the statement of the purpose and effect of the zoning by-law can be substantially completed before the by-law is given third reading and preliminary arrangements can be made for producing the notice.

- It is important that the requirements for giving notice of the passing of zoning by-laws be met within the 15 day period to avoid raising questions about the legal effect of the by-laws.

- Where local official plan amendments and implementing zoning by-laws are being proposed simultaneously the notices of the required public meetings and the meetings themselves can be combined for the convenience of everyone. Although those to be notified of the **passing** of official plan amendments (as described in section 17(8) of the Planning Act) are not identical to those to be notified of the passing of the zoning by-laws, to the extent that the same people are to be notified, these notices could be combined. The notices of passing of official plan and zoning by-law matters must be sent within fifteen days of their respective adoption by council. Accordingly, both documents would have to be adopted at the same meeting for this combination of notices to be practical.

  As with official plans and amendments, the required public meeting held by council on zoning matters need not be the first chance for the public to study the proposal. Municipal staff and/or a planning advisory committee could meet the public on the proposal, or one or two readings could be given to the zoning by-law before the statutory public meeting of council is held. This may shorten or eliminate the time required to make revisions to the zoning by-law between the public meeting and council's passing of the by-law. While there is no prescribed form for the notice of the required meeting, a sample is shown in Appendix 3.

- Where changes are made to a zoning by-law after the required public meeting, council must decide whether the effect of the changes is a minor revision to the by-law or whether these amount to a substantially different proposal. If council decides the changes do not amount to a new zoning proposal, no further public meeting is required. However, if the changes are such that a significantly different proposal results, the public must be re-notified and a further public meeting held. This follows from the principle established in section 60 of the Planning Act that council must afford any person a fair opportunity to make representation on any by-law being considered.

5 NOTICE REQUIREMENTS: REMOVAL OF HOLDING SYMBOL FROM ZONING BY-LAWS

This regulation is intended to advise of council's intention to pass a by-law removing the holding symbol from a zoning by-law. In these instances, it applies instead of the normal notification requirements for zoning by-laws mentioned above. The holding symbol would have been placed in a normal zoning by-law enacted using the notice requirements for zoning by-laws discussed earlier. While the zone category accompanying the holding symbol shows the future use to which the lands included may be put, the holding symbol added to the zone symbol restricts the use of the land to other specified uses until the holding symbol is removed. This notice does not provide for any person or agency to appeal the by-law removing the holding symbol. Rather, it simply confirms that the future anticipated use can proceed once the holding symbol is removed.

The regulation describes the **persons and agencies** to be given notice of council's intention to pass a by-law removing the holding symbol, the **manner** of giving such notice and the **information** to be contained in the notice.

Persons and agencies – The **persons** to be notified of council's intention to remove the holding symbol from a zoning by-law include those land owners within the area for which it is proposed to remove the holding provision. Where the area from which the holding symbol is to be removed is smaller than the area to which that symbol was originally applied, only those land owners within the area where the holding symbol is to be removed are required to be notified.

Those **persons and agencies** who have requested this notice in writing, with a return address, are also to be notified. As for notifying persons of zoning by-laws and amendments, requests for notice of council's intention to remove the holding symbol from a zoning by-law must specify the area of interest. As in the case of official plans and zoning by-laws, generalized requests for notice of the intention to pass any by-law removing any holding symbol would not have to be honoured by the municiaplity.

Manner of Notice – The **manner** for giving this notice is the same as for official plans and zoning by-laws – publication in a newspaper, personal service or prepaid first class mail (see the discussion under section 3 "Notice Requirements: Official Plans").

Information – The notice must describe the area from which the holding symbol is to be deleted. This can be done by a map or, where this area can be simply described, in words. However, a map is more likely to be easily understood and the possibility of inadvertently misrepresenting the area is less.

The notice must also describe the effect of the removal of the holding symbol. This may be a statement of all the uses permitted in the zone category, or the more specific use or uses consistent with the underlying zone category proposed for one or more sites, when the holding symbol is removed.

Further, the notice must specify the earliest date at which council would consider the amending by-law. The municipality need not specify the exact date on which council **will** consider the amending by-law but the notice must state the earliest such date. There is no required minimum period between the giving of the notice of council's intention to pass the by-law and the actual passing of the by-law. Despite this, the municipality should leave enough time for the recipients to receive the notice, consider it and contact the municipality for information before the by-law removing the holding symbol is passed.

No form is prescribed for giving notice of council's intention to remove a holding symbol. A sample of such a notice is given in Appendix 4.

6 NOTICE REQUIREMENTS: INTERIM CONTROL BY-LAWS

Interim control by-laws would be passed to restrict land uses so that a review or study, authorized by council, of one or more areas, could be completed and appropriate new plan and by-law coverage enacted. They ensure that land uses are restricted, for a possible maximum of two years, so as not to prejudice the findings and implementation of council's review or study. They are **not** zoning by-laws and are **not** subject to the notice requirements for zoning by-laws discussed earlier. No public notice is required before council passes an interim control by-law. However, within thirty days of the passing or extension of an interim control by-law, the municipal clerk must give notice of that passing or extension. These notice requirements, established by regulation, describe the **persons and agencies** to receive notice, the **manner** in which the notice is to be given and the **information** to be contained. Once the notice is given, any person or agency receiving it may appeal the interim control by-law to the Ontario Municipal Board within sixty days of the passing of the by-law.

Persons and agencies – The **persons** to be notified of the passing of any interim control by-law are restricted to land owners within the area of the by-law and those land owners within 120 metres of that area. The regulation does not require the clerk to notify those asking for general notice of the passing of interim control by-laws. Those directly affected will be within 120 metres of the by-law's area and are assured of receiving notice. The three **agencies** to receive the notice of the passing of an interim control by-law are self explanatory.

Manner of Notice – Those persons to receive this notice are to be given the notice by one of the three manners provided (see section 3 – "Notice Requirements: Official Plans").

Those **agencies** to receive this notice are to be sent the notice by prepaid first class mail or personal service.

Information – The information to be contained in the notice is self explantory in section 2 of this regulation, and no form is prescribed for this notice. A sample of such notice is given in Appendix 5.

7 RULES OF PROCEDURE: CONSENT APPLICATIONS

These rules are very similar to the corresponding rules under the former Act. They prescribe for councils, committees of council, land division committees, committees of adjustment and appointed officers the **persons and agencies** to be conferred with in determining whether a consent is to be given. Changes in the rules arise from:

- the need to recognize the variety of persons and bodies any one of whom under the new Act could be the consent approval authority in a municipality;
- the removal of a required public hearing in deciding consent aapplications; and
- a consent application form (Form 1) condensed to resemble the application form for a Minister's consent and excluding the section "for office use only".

Persons and agencies – Not less than fourteen calendar days before it is considered by the approval authority the official, as defined in the rules, must provide a copy of each consent application and a request for comments on it to those listed in the regulation. This list has been shortened by deleting the senior planning officer within the same municipality as the approval authority since this person should be conferred with as a matter of course.

Three agencies are to be conferred with unless they advise the official in writing that they do not want to receive applications from the approval authority. These are:

- the district, county, region or metropolitan municipality where that municipality has delegated the authority to grant consents to the local municipality;
- the Ministry of Natural Resources, under specified conditions; and
- the Ministry of Agriculture and Food, under specified conditions.

These agencies have the choice of receiving or not receiving applications which would be sent to them for comment by the approval authority under the regulation. They cannot elect to receive some applications and not receive others within one approval authority's area. Where there is any doubt whether the criteria under which applications are to be sent to the Ministry of Natural Resources or the Ministry of Agriculture and Food are met the official should contact the local Ministry of Natural Resources District office or the Food Land Preservation Branch of the Ministry of Agriculture and Food ([416] 965-9433).

The approval authority can determine that any person or agency should receive applications and a request for comments on them. It is important that approval authorities consider which, if any additional persons or agencies should receive notice of consent applications. For example, land owners abutting or close to lands subject to a consent application may consider their property adversely affected by a proposed new lot nearby. This is particularly important where the livelihood of the nearby land owners, such as farmers deriving their income from their land, may be adversely affected by an incompatible new land use on a new lot nearby. It is better for all concerned parties if the approval authority has information on all pertinent factors affecting the application **before** the decision rather than relying on the appeal process to resolve an issue.

Manner of Notice – The **manner** of sending notice of consent applications and requesting comments from persons and agencies is **not** prescribed in the regulation. The approval authority can choose the manner it considers proper for providing this notice. In most cases, consent granting authorities under the former Planning Act have used prepaid first class mail for giving this notice.

The following points should also help approval authorities in working with the new rules of procedure for consent applications:

- Although no public hearing is required by the legislation in deciding consent applications, it may be decided locally that such hearings should be held. The form of notice, the persons and agencies to be notified, the manner of giving the notice (including the minimum period of notice before the hearing) and the procedure for giving notice of further public hearing can all be decided locally by the approval authority.

- Where the body granting consents before August 1st will not be the approval authority under the new Planning Act, several considerations should be taken into account.

  Under the provisions of section 74 of the new Act, consent applications made before August 1st are disposed of under the former Act. This means that they are to be finalized using the former rules of procedure, but by the new (i.e. post-August 1st) approval authority. Those consent granting authorities which will not be carried over under the new Act will not have the jurisdiction to finalize the outstanding applications – this will become the responsibility of the new consent granting authorities. However, where a consent granting authority will continue under the new Act, it will have the authority to dispose of applications made prior to August 1st.

- The required authorization for an agent or solicitor making a consent application for a land owner can be an original letter for each application or a letter left with the approval authority generally authorizing one or more agents and/or solicitors. The land owner is responsible for keeping the authorizations of agents and solicitors current and cancelling any discontinued earlier authorizations.

- Where the official, as defined in the regulation, is unable to perform his duties, the authorization by the approval authority of another person to perform those duties can be a resolution of the approval authority or, where the approval authority is an appointed officer, a decision by that officer.

- Additional copies of the consent activity profiles, required to be completed and submitted to the ministry twice annually, are available from the Community Planning Advisory Branch offices at the addresses listed at the end of this guideline.

- Form 1, the application for consent, does not contain any space for the approval authority to record information "For Office Use Only". Approval authorities are free to decide what summary information they wish to record and to insert a page "For Office Use Only" in reproducing Form 1.

- The requirements for giving notice of decisions on consent applications are set out in section 52(5) of the Planning Act.

8 RULES OF PROCEDURE: MINOR VARIANCE APPLICATIONS

These rules are also very similar to the corresponding rules under the former Act. They prescribe for all committees of adjustment the **persons and agencies** to be given notice on applications for minor variance or permission, the **manner** of giving this notice and the **information** to be contained in the notice.

Persons and agencies – The list of those to be notified of minor variance applications and the time and place of the required hearing to be held on them is self explanatory. In northern Ontario, the only part of the province where planning boards will continue, the committee of adjustment should confer with the relevant planning board, if any, as it considers appropriate.

The senior planning officer or chief administrative officer of the county, district, metropolitan or regional municiaplity can elect not to receive notice of minor variance applications. Where this is indicated in writing it applies to **all** such applications and not a portion of those applications, however categorized.

Encumbrancers of property included in minor variance applications are to be notified of the application and hearing details. Generally, encumbrancers are those who have an interest in the **title** to land (e.g. mortagors) rather than those whose interest is restricted to the **use** of the land (e.g. leasors). Despite this distinction it is certainly reasonable to provide those persons or agencies not explicitly required to be notified with notice of the application and hearing if the committee determines that they should receive such notice. The committee should carefully consider the context of the application in determining what additional persons and agencies, if any, should receive notice.

Manner of Notice – No specific **manner** for giving the required notice is specified. Instead, the secretary-treasurer is charged with giving the notice **in such manner as the committee considers proper.** Should there be any doubt as to the fairness of the proposed manner of giving this notice, the committee should consult its municipal solicitor to ensure that the proposed manner is consistent with the principles of natural justice.

Information – The information required to be in the notice is simply a summary of the application and the time and place of the hearing to be held on it. Whether a copy of the application form itself is provided to those notified or not, a brief explanation of the application's proposal must be included.

As with applications for consent, the committee of adjustment can indicate by resolution the person authorized to perform the duties of the secretary-treasurer where the secretary-treasurer is unable to carry on his duties.

Similarly, there is no summary page for the committee to record information "For Office Use Only". As with the consent application form, committees of adjustment may add such a page, for their own use and convenience, in reproducing the form.

Conclusion

This guideline has discussed many of the practical considerations for municipalities working with the regulations under the Planning Act, 1983. In order to determine if a regulation applies to a particular application or planning matter, section 74 of the new Act should be reviewed.

Early and frequent contact with Ministry of Municipal Affairs and Housing staff where uncertainty exists in complying with the regulations can ensure that foreseeable problems are avoided and that basic problems are corrected rather than allowed to become complicated for everyone involved in the process.

APPENDIX 1

PUBLIC MEETING CONCERNING A PROPOSED OFFICIAL PLAN AMENDMENT

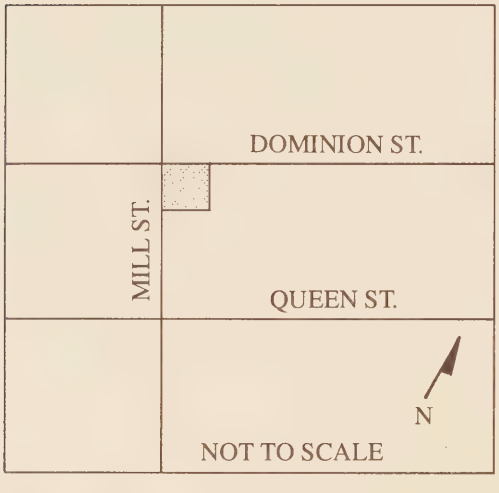
(Sample Only)

TAKE NOTICE that the Council of the Corporation of Town of Cranbrook will hold a public meeting on September 23, 1983 at 7:00 p.m. at Sharpe Memorial Hall (11 Brock Street) to consider a proposed official plan amendment under section 17 of the Planning Act.

The proposed official plan amendment would change the designation of about 0.2 ha of land at 43 Mill Street (as shown below) from "Residential" to "General Commercial" to allow a jug milk store. The proposed amendment would also add a policy to the "General Commercial" policies of the official plan to require a minimum separation of 200 metres between jug milk stores.

ANY PERSON may attend the public meeting and/or make written or verbal representation either in support of or in opposition to the proposed official plan amendment.

ADDITIONAL INFORMATION relating to the proposed official plan amendment is available for inspection between 9:30 a.m. and 5:15 p.m. at my office at 16 Main Street South and at the Cranbrook Public Library at 157 Weller Avenue between 10:00 a.m. and 8:30 p.m.



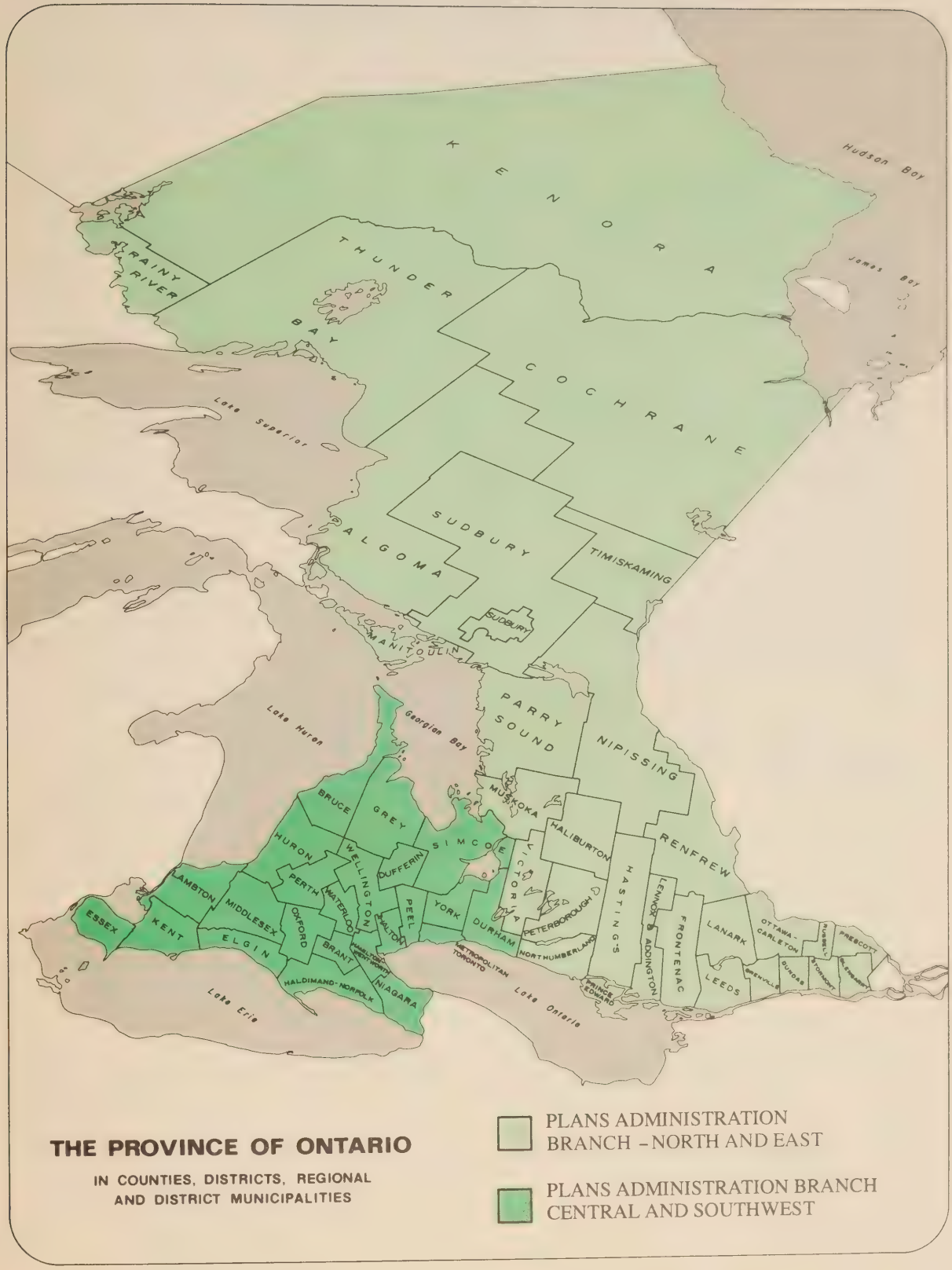
– AREA OF PROPOSED REDESIGNATION FROM "RESIDENTIAL" TO "GENERAL COMMERCIAL"

DATED AT THE TOWN OF CRANBROOK
THIS 24TH DAY OF AUGUST, 1983

CLERK, TOWN OF CRANBROOK
BOX 10, CRANBROOK P.O.

TELEPHONE: 852-3336

APPENDIX 2


KENORA
RAINY RIVER
THUNDER BAY
COCHRANE
Hudson Bay
James Bay
Lake Superior
ALGOMA
SUDBURY
TIMISKAMING
SUDBURY
MANITOULIN
Lake Huron
Georgian Bay
PARRY SOUND
NIPISSING
MUSKOKA
HALIBURTON
RENFREW
BRUCE
GREY
SIMCOE
HURON
WELLINGTON
DUFFERIN
VICTORIA
HASTINGS
LENNOX & ADDINGTON
FRONTENAC
LANARK
OTTAWA-CARLETON
PRESCOTT
RUSSELL
GLENGARRY
STORMONT
DUNDAS
GRENVILLE
LEEDS
LAMBTON
PERTH
WATERLOO
PEEL
YORK
DURHAM
PETERBOROUGH
NORTHUMBERLAND
PRINCE EDWARD
MIDDLESEX
OXFORD
BRANT
HALTON
HAMILTON-WENTWORTH
METROPOLITAN TORONTO
ESSEX
KENT
ELGIN
HALDIMAND-NORFOLK
NIAGARA
Lake Erie
Lake Ontario
THE PROVINCE OF ONTARIO
IN COUNTIES, DISTRICTS, REGIONAL AND DISTRICT MUNICIPALITIES
PLANS ADMINISTRATION BRANCH - NORTH AND EAST
PLANS ADMINISTRATION BRANCH CENTRAL AND SOUTHWEST

APPENDIX 3

PUBLIC MEETING CONCERNING A PROPOSED ZONING BY-LAW AMENDMENT

(Sample Only)

TAKE NOTICE that the Council of the Corporation of the Township of the Fitzwilde will hold a public meeting on October 24, 1983 at 7:30 p.m. at the Township Municipal Building (10th Sideroad) to consider a proposed zoning by-law amendment under section 34 of the Planning Act.

The proposed zoning by-law amendment would change the zone category of 2.0 ha of land on the Seventh Concession between the 10th and 15th Sideroads (as shown below) from "RU (Rural)" to "RUC (Rural Commercial)" to permit a grain and feed mill outlet. The proposed zoning by-law amendment would also change the "RUC (Rural Commercial)" zone standards by increasing the permitted lot coverage from 15% to 20%.

ANY PERSON may attend the public meeting and/or make written or verbal representation either in support of or in opposition to the proposed zoning by-law amendment.

ADDITIONAL INFORMATION relating to the proposed zoning by-law amendment is available for inspection between 10:00 a.m. and 5:30 p.m. at my office and at the Fitzwilde Public Library on the 5th Sideroad between 10:30 a.m. and 8:00 p.m.

DATED AT THE TOWNSHIP OF
FITZWILDE THIS 23RD DAY
OF SEPTEMBER, 1983

CLERK, TOWNSHIP OF FITZWILDE
FITZWILDE TOWNSHIP MUNICIPAL
BUILDING
FITZWILDE P.O.

TELEPHONE: 725-2069

– AREA OF PROPOSED REZONING
FROM "RU (RURAL)" TO
"RUC RURAL COMMERCIAL"

APPENDIX 4

NOTICE OF INTENTION TO PASS AN AMENDING BY-LAW TO REMOVE IN PART THE HOLDING SYMBOL FROM LANDS ZONED BY BY-LAW 63-83

(Sample Only)

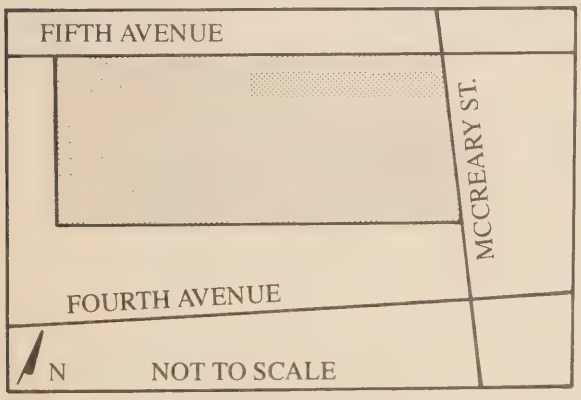
TAKE NOTICE that the Council of the Corporation of the City of Gainsford intends to pass an amending by-law under section 35 of the Planning Act to remove the holding provision from lands west of McCreary Street between Fourth and Fifth Avenues (as shown below) zoned "R1-H (Residential First Density-Holding)".

The "R1-H" zone permits existing uses, public open space and recreational uses excluding any buildings structures. Removing the holding symbol from the "R1-H" zone would allow 10 ha of land or about one half of the lands zoned for residential use in By-law 63-83 but placed in a holding category to be developed for single-family and semi-detached residential uses.

The Council of the Corporation of the City of Gainsford will consider the proposed amending by-law not earlier than at its meeting of November 25, 1983.

ANY PERSON OR AGENCY REPRESENTATIVE may attend the Council meeting at which the amending by-law is considered and/or make written or verbal representation either in support of or in opposition to the proposed by-law.

ADDITIONAL INFORMATION on the proposed amending by-law is available at my office between 9:00 a.m. and 5:00 p.m. and at the Gainsford Public Library, 431 Hampton Street between 10:00 a.m. and 8:00 p.m.



– AREA OF PROPOSED AMENDING BY-LAW TO REMOVE THE HOLDING SYMBOL FROM THE "R1-H (RESIDENTIAL FIRST DENSITY-HOLDING)" ZONE

DATED AT THE
CITY OF GAINSFORD
THIS 3RD DAY OF OCTOBER, 1983

CLERK, CITY OF GAINSFORD
430 CENTRE STREET SOUTH
GAINSFORD

TELEPHONE: 339-4371

APPENDIX 5

NOTICE OF PASSING OF AN INTERIM CONTROL BY-LAW UNDER SECTION 37 OF THE PLANNING ACT

(Sample Only)

TAKE NOTICE that on October 14, 1983, the Council of the Corporation of the City of Carlisle adopted By-law 108-83, an interim control by-law, under section 37 of the Planning Act.

THE BY-LAW PROHIBITS the use of land, buildings or structures for uses other than single-family dwellings on 10. ha of land bounded by McAskile Street, Hepple Avenue, Crain Street and Dunford Avenue (shown below).

THE BY-LAW WAS ADOPTED TO RESTRICT land use in the area described while a review of the official plan and by-law provisions applying to this area since 1961 is completed and any necessary changes enacted.

BY-LAW 108-83 IS TO REMAIN IN EFFECT for a period of one year from the date of passing. However, subsection 37(2) of the Planning Act allows council to amend the by-law to extend the period of time during which it will be in effect provided the total period of time does not exceed two years from the date of passing.

ANY PERSON OR AGENCY sent this notice may appeal to the Ontario Municipal Board by filing with me before December 13, 1983 a notice of appeal setting out the objection to the by-law and reasons in support of the objection.

ADDITIONAL INFORMATION on By-law 108-83 is available at my office in the Carlisle City Hall between 8:45 a.m. and 4:30 p.m. The full by-law as adopted by council is reproduced below.

DATED AT THE CITY OF CARLISLE
THIS 10th DAY OF NOVEMBER, 1983

_____

CLERK, CITY OF CARLISLE
CARLISLE CITY HALL
DOMINION SQUARE
CARLISLE

TELEPHONE: 937-1463

For further information, contact any of the following offices of the Ministry of Municipal Affairs and Housing:

Community Planning Advisory Branch

Central Region
47 Sheppard Avenue East
2nd floor
Willowdale, Ontario
M2N 2Z8
Telephone: (416) 224-7635
ZENITH 52650

South East Region
244 Rideau Street
3rd floor
Ottawa, Ontario
K1N 5Y3
Telephone: (613) 566-3801
ZENITH 52650

South West Region
495 Richmond Street
7th floor
London, Ontario
N7A 5A9
Telephone: (519) 673-1611
TOLL FREE 1-800-265-4736

North East Region
1191 Lansing Avenue
Sudbury, Ontario
P3A 4C4
Telephone: (705) 560-0120
TOLL FREE: 1-800-461-1193

North West Region
435 James Street South
Thunder Bay, Ontario
P7C 5G6
Telephone: (807) 475-1651
ZENITH 52650

Plans Administration Branch — North and East

56 Wellesley Street West, 7th floor
Toronto, Ontario
M7A 2K4
Telephone: (416) 965-6418

Plans Administration Branch — Central and Southwest

56 Wellesley Street West, 8th floor
Toronto, Ontario
M7A 2K4
Telephone: (416) 965-6418

Local Planning Policy Branch

56 Wellesley Street West, 3rd floor
Toronto, Ontario
M7A 2K4
Telephone: (416) 965-3938

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1. Planning Advisory Committees (January 1983)
2. Local Planning in Northern Ontario (January 1983)
3. Delegation of Minister's Authority (January 1983)
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5. Working With the Regulations (August 1983)
6. Official Plan Policies on Public Notice (August 1983)

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Ontario
Ministry of Municipal Affairs and Housing

Claude F. Bennett, Minister
Ward Cornell, Deputy Minister

Published by:
Local Planning Policy Branch
56 Wellesley Street West
Toronto, Ontario
M7A 2K4

Ministry of
Municipal Affairs
and Housing

Ontario

THE PLANNING ACT

GUIDELINE 6

Official Plan Policies on Public Notice

August 1983

1 INTRODUCTION

The new Planning Act places responsibility for land use planning directly with elected municipal councils. Part of this responsibility includes the holding of a public meeting before decisions are made on matters involving official plans, community improvement plans and zoning by-laws. The new legislation provides for this public meeting to be held after at least 30 days notice given in the manner and to persons as set out in the regulations.

In the case of official plans, the regulation allows for the giving of notice by one of two methods: either (i) publication in a newspaper, or (ii) individual notices. Individual notices are to be given by personal service or prepaid first class mail to owners of land within the area to which the proposal applies and those within 120 metres. Individual notices are also given to persons and agencies who have made a written request for notice to the clerk.

In the case of zoning by-laws, the regulation allows notice to be given in one of three ways:

- by newspaper; or
- by individual notice to owners of land within the area to which the proposal applies and those within 120 metres. In such instances, a sign also must be posted on each property or at a nearby location chosen by the clerk; or
- by individual notice to those persons shown on the assessment roll who are within the area to which the proposal applies and those within 120 metres.

As well, individual notices are given to persons and agencies who have made a written request for notice to the clerk.

Because there may be instances where it may be appropriate to reduce the 30 day period of notice required by the Act and/or some aspect(s) of the notification procedure in the regulations, sections 17(4), 28(4) and 34(14) of the Act give municipalities the choice of using their own procedures for public notice instead of the Act and regulations. The details of these alternative procedures, however, must be established in the municipality's official plan. Accordingly, this guideline is intended to assist municipalities in preparing official plan policies for these procedures.

The guideline recognizes that municipalities may wish to tailor the policies to the type of proposal, the most effective use of resources, and established local practice. It therefore provides general guidance on the issues which may be addressed. Specific alternative policies for public notice are not provided, in order to allow municipalities to develop policies which are appropriate for their situations.

2 BASIS FOR POLICY DEVELOPMENT

Before a municipality decides to prepare official plan policies for public notice, it should determine if the 30 day notice period and/or the procedures prescribed by the regulations are suitable. If they are, no policies need be prepared. However, if the municipality wants to have notification procedures which are less stringent, official plan policies must be developed.

The rationale for developing official plan policies for public notice may be based on the following considerations:

- Does council wish to give less than 30 days notice of public meetings for certain proposals? Does council wish to relate the reduced notice period to the cycle of council and/or committee meetings?

- Would means of notice other than those in the regulations be more appropriate for providing notice for certain types of proposals?

- Do some proposals lend themselves to less extensive notification while giving individuals a fair opportunity to make representations to council?

- Should there be a provision for consulting the public again on a substantially revised proposal? If the official plan policy does not provide for notice of council's reconsideration of the proposal, the Act and the regulations will apply.

Municipalities should keep the following three points in mind when preparing official plan policies:

- Council is responsible for the final municipal decision on planning proposals. Accordingly, it must give individuals a fair opportunity to present their views, as required by section 60 of the new Planning Act.

- Before making the final decision on a planning proposal, council must hold a meeting to hear the views of the public. Section 106 of the Municipal Act R.S.O. 1980 permits this public meeting to be held by a committee of council if council assigns this function to such a committee by by-law. In order to allow the municipal planning process to flow as smoothly as possible, this meeting can be part of a regular council or committee meeting; a separate or additional public meeting is not required.

- The only alternative procedures requiring official plan policies are those which are less restrictive than the 30 day notice period in the Act and/or some aspect(s) of the regulations. If a municipality wants to develop procedures which are more stringent or detailed than the regulations, this can be done outside of the official plan to give more flexibility in varying procedures for different proposals.

3 GUIDELINES TO POLICY PREPARATION

The official plan policies for public notice should clearly indicate if the alternative procedures will be used instead of the Act (i.e. 30 day notice period) and regulations, or in conjunction with them. For example, if a municipality wishes only to reduce the notice period and use the regulations, the official plan policy should indicate this.

The policies may include one procedure for all, or separate procedures for each, of the following:

- comprehensive zoning by-law

- official plan amendment

- zoning by-law amendment

- community improvement plan
- community improvement plan amendment

Because extensive notification normally occurs for public meetings on comprehensive by-laws, this type of by-law should be subject to the regulations for notice. However, for the other planning documents, the official plan policies could address any of the following:

- the public meeting
- the period for advance notice
- the means of notice
- the persons to be notified
- the notification for subsequent meetings should council make a change to the proposal.

Municipalities may have to bring any existing municipal procedural by-law into conformity with the public involvement procedures in the official plan when they are approved. Accordingly, any conflicts with the procedural by-law should be identified when the official plan policies on public involvement are being drafted.

Public Meetings

As a basic principle, the public must be given an opportunity to present its views at a public meeting held either by full council or a committee of council. If a committee of council holds the public meeting it has to forward a written report to council as required in section 106(2) of the Municipal Act, R.S.O. 1980.

It is recognized that a municipality may arrange for public involvement in its planning process (e.g. meetings held by a planning advisory committee or staff) in addition to the public meeting which is the responsibility of council. However, the official plan policy should only elaborate on the procedural steps relating to the public meeting held by council or committee of council.

Period for Advance Notice

Since the Act requires that notice of the public meeting be given at least 30 days in advance, the alternative procedures should only indicate which proposals will be subject to less than this provision and define the lesser notice period(s). The length of advance notice may vary with the type of proposal and may be timed to fit with the regular cycle of committee and/or council meetings. However, the time period must give the public sufficient time to receive the notice, arrange to be present at the meeting and prepare their views.

The only exception may be in the case of proposals involving non-substantive changes where, because the principle of section 60 of the Act will likely not be breached, the notice period can be greatly reduced or eliminated. However, the ministry will review very carefully any official plan policies which propose the elimination of an advance notice, in order to ensure that the principle of section 60 is not compromised.

Means of Notice

Notice of the public meeting should be given for all proposals. The procedures may include means of notice other than those required in the regulations. They could also require that the means of notice in the regulations be used for certain types of proposals with flyers or other methods used for others. As a basic principle, any means of notice should indicate the nature and location of the proposal and the time, date and location of the public meeting to be held by council or the committee of council.

Persons to be Notified

The persons to be notified of the public meeting may vary from those indicated in the regulations. It should not contain boards, commissions, authorities or agencies since council is required to provide information on proposals to these bodies (sections 17(5) and 34(15) of the Act). The official plan policy for any individual notices should provide for notice to land owners within the area of the proposal. It should also include land owners either immediately adjacent to the area of the proposal or within a specified distance of the site of the proposal if council wishes to reduce the 120 metre distance contained in the regulations.

Notification criteria may be included in the policies to take into account the nature of proposals and consequently who should be notified. For example, the policies may require that a site specific proposal be subject to a notification list which is less than that in the regulations. Notification covering a wider area than the regulations require may be undertaken at the municipality's discretion. However, the alternative procedures should require notification of all individuals who have made a written request to the clerk to be notified of the meeting if the regulations are not to be followed.

Notification for Subsequent Meetings

Section 34(16) of the Act gives councils discretion in determining whether or not to consult the public on changes to a proposed zoning by-law. When the changes to the by-law are substantive, council should be aware of the need to fulfill the requirements of section 60 of the Act by providing the same members of the public with another opportunity to make representation. However, unless there are alternative procedures in the form of official plan policies, the requirement of the public meeting with 30 days notice given according to the regulation applies. To expedite the renotification process, a municipality could develop alternative procedures with respect to the period for advance notice for successive meetings. Where the period for advance notice for initial proposals is less than 30 days a municipality could use that period as a standard notice period for council meetings on all proposals and word the official plan policy accordingly. In this case the reduced notice period would also apply to revised proposals.

There is no specific provision in the Act that the public be consulted again on proposed official plan amendments or community improvement plan matters which have changed substantially as a result of a public meeting. However, the provisions of section 60 of the Act imply that further consultation is appropriate. A municipality could therefore develop alternative procedures for renotification on these matters as well.

4 CONCLUSION

Municipalities and planning boards have the opportunity to include, in their official plan, the type of public involvement policies best suited to their needs if the regulations are not appropriate. This guideline has suggested which matters should be taken into account in preparing these policies. In order to discuss specific procedures and official plan policies, staff of the Plans Administration Branch and the Community Planning Advisory Branch of the ministry should be consulted.

Since each municipality will have to include its own requirements in these policies it should also consult its solicitor to satisfy itself that the principles of the new Planning Act are not compromised.

For further information, contact any of the following offices of the Ministry of Municipal Affairs and Housing:

Community Planning Advisory Branch

Central Region
47 Sheppard Avenue East
2nd floor
Willowdale, Ontario
M2N 2Z8
Telephone: (416) 224-7635
ZENITH 52650

South East Region
244 Rideau Street
3rd floor
Ottawa, Ontario
K1N 5Y3
Telephone: (613) 566-3801
ZENITH 52650

South West Region
495 Richmond Street
7th floor
London, Ontario
N7A 5A9
Telephone: (519) 673-1611
TOLL FREE 1-800-265-4736

North East Region
1191 Lansing Avenue
Sudbury, Ontario
P3A 4C4
Telephone: (705) 560-0120
TOLL FREE: 1-800-461-1193

North West Region
435 James Street South
Thunder Bay, Ontario
P7C 5G6
Telephone: (807) 475-1651
ZENITH 52650

Plans Administration Branch—North and East

56 Wellesley Street West, 7th floor
Toronto, Ontario
M7A 2K4
Telephone: (416) 965-6418

Plans Administration Branch—Central and Southwest

56 Wellesley Street West, 8th floor
Toronto, Ontario
M7A 2K4
Telephone: (416) 965-6418

Local Planning Policy Branch

56 Wellesley Street West, 3rd floor
Toronto, Ontario
M7A 2K4
Telephone: (416) 965-3938

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Toronto, Ontario
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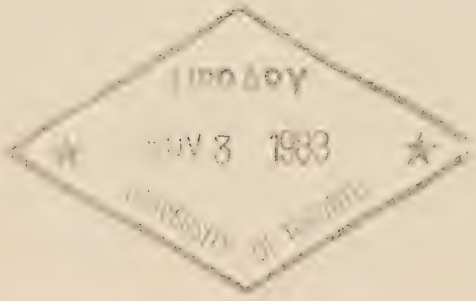
Ministry of
Municipal Affairs
and Housing

Ontario

THE
PLANNING
ACT

GUIDELINE 7

Planning Application Fees



August 1983

1 INTRODUCTION

This guideline is intended to help municipalities establish a tariff of fees for the processing of planning applications as provided for in section 68 of the **Planning Act, S.O. 1983.**

Application fees for zoning by-laws, subdivision plans, official plan amendments and other kinds of development applications are common in many municipalities, although no legislative basis formerly existed for the charging of these fees.

Although there appears to be a general acceptance of the principle that municipalities should be able to charge fees, municipal councils may wish to consider the processing of planning applications as a municipal service to be financed out of general taxes rather than charging a fee. Further, it is recognized that fees for planning applications can also affect the resulting cost of housing, office space and industrial development. It is important, therefore, that municipalities carefully review and consider the impact of a tariff of fees by-law and the level of the proposed fees, in light of local market conditions in order to devise an equitable and realistic fee structure.

The **only** basis for charging application fees is through a municipal by-law passed under section 68 of the Planning Act, S.O. 1983.

The legislative provisions, policy matters and municipal requirements related to application fees are set down to help those municipalities that choose to pass such by-laws.

2 BACKGROUND

Throughout the review of the municipal planning process it became apparent that fees for planning applications should be permitted. However, views differed on how the fees should be determined and what legislative provisions would be needed.

One of the underlying principles of section 68 is that the fees established by municipalities are to meet only "the anticipated cost . . . of the processing of each type of application". Tariff by-laws should not be viewed as a means to raise revenue or increase municipal services, and should not be confused with impost fees or lot levies required by many municipalities. The processing of development proposals must be viewed as being part of the standard services provided by municipalities.

It was recognized that the legislation should not prescribe the actual fees to be charged. It is more appropriate for municipalities to prepare their own tariff of fees based on their own actual costs because conditions vary so much across the province.

3 THE LEGISLATION

The intent of section 68 of the Planning Act is self-explanatory. The legislation provides a simple, straight-forward way of establishing application fees, while at the same time permitting municipalities the flexibility to tailor a by-law to their own municipal review and approval process.

The following is a synopsis of the legislative highlights for the four subsections that comprise section 68:

Section 68(1)
- a municipal council may pass a by-law prescribing a tariff of fees relating to the processing of planning applications;

- the tariff must only apply to the anticipated cost of processing a planning application;
- a municipal council, through its tariff by-law, may set the fees to be charged by its committee of adjustment and land division committee;
- no approval of the by-law, beyond that of municipal council, is required.

Section 68(2)

- the fee set by by-law may be reduced or waived entirely in specific cases or a specific application where this is considered appropriate;
- the use of this option must be made by the body empowered to approve the application (i.e. council, committee of adjustment, land division committee) and should be done in the form of a resolution or decision of the appropriate body.

Section 68(3)

- a person may pay a fee under protest and appeal the amount in writing to the OMB within 30 days of paying the fee.

Section 68(4)

- the OMB **must** hold a hearing on an appeal;
- the Board can dismiss the appeal or direct a refund be made and its decision is final.

4 TARIFF OF FEES BY-LAWS

Municipal Actions

In the development of the fee structure to be included in the tariff of fees by-law, municipal councils should consider a consultation and review process. Actions that a council may wish to consider are:

- a historical review of costs incurred in processing planning applications;
- a review of costs presently incurred in processing the various types of planning applications;
- consultation with the senior planning and financial officers and municipal solicitor;
- consultation with the municipal committee of adjustment and land division committee on matters under their jurisdiction;
- consultation with the planning board (northern Ontario);
- consultation with residents of the community;
- consultation with the development industry working within the municipality.

Basis for Establishing Fees

During a municipal council's consideration of a tariff of fees by-law, the following points should be kept in mind:

- the fees established should only apply to a planning matter which requires an application to be made and results in some form of municipal review or approval process;

- the fees should only relate to the costs incurred by a municipality in processing a planning application;

- the fees should primarily be based on the staff time and associated costs needed to carry out the review of a planning application by the municipality;

- the fees should only relate to the cost incurred in processing the application during the time period leading up to a decision by council, including post notification;

- the fees should be reasonable and defensible as they can be challenged resulting in an appeal to the OMB.

In establishing a tariff of fees by-law, municipal councils should carefully consider whether subsequent costs should be charged, as a result of an OMB hearing. Where there is a dispute between an applicant and the municipality, it is unfair to require the applicant to pay a fee as the municipality would be in a position to recover its costs no matter what the decision was. More importantly, to permit OMB costs to be included in a tariff of fees by-law would conflict with the Board's jurisdiction to award costs where it is felt appropriate. On the other hand, where the applicant and the municipality are in agreement on an application and the municipality is in effect making the request to the OMB on behalf of the applicant, then recovery of some part of the municipal cost through an application fee seems reasonable.

5 BY-LAW CONTENT

The exact content of municipal tariff of fees by-law will vary depending on the individual circumstances existing in a municipality. The following matters should be considered for inclusion in a tariff of fees by-law:

Types of applications

- municipalities should clearly specify the types of planning applications that the tariff of fees by-law will apply to (i.e. zoning by-law amendments, minor variance, etc.);

- matters not included in the by-law cannot be the subject of a fee.

Classification of applications

- municipalities may wish to devise ways of applying specific fees for different classes of applications (e.g. simple/complex, minor/major); this would be useful in order to establish an equitable distribution of costs, recognizing the different demand made on municipal staff services by particular development applications. For example, a lower fee would be appropriate for a single family "spot zoning" amendment as opposed to a major amendment for a shopping centre.

Processing steps

- a tariff of fees by-law should be based on the specific functions of the municipal review and approval process for which fees will be charged (this may be included in a schedule to the by-law);

- although the planning process may vary somewhat from municipality to municipality, councils should consider the basic steps established in the Act and associated Regulations (i.e. notice, review, consultation, public meeting, council decision);

- the processing steps relate to the normal review functions performed internally by the municipality;

- additional matters that are part of an individual municipality's planning review process should be set out in the by-law.

Fees and associated methods of charging fees

- a tariff of fees by-law by definition must stipulate a fixed fee in respect of each application specified;

- in establishing a fixed fee, municipalities may wish to charge a flat fee (e.g. minor variance $150.00) or a fee based on a time consumed basis (e.g. minor variance $25.00 per hour or $75.00 per day) or an average fee based on costs incurred in the past (e.g. minor variance $200.00)*;

- whichever manner (e.g. fixed, per hour, average, per diem, etc.) a municipality chooses as a basis for fees, the tariff by-law must clearly set it out;

- fees may also be established based on the classification of applications set out in the by-law (i.e. single family zoning amendment $400.00, major commercial zoning amendment $1,000.00)*;

- other costs that a municipality wishes to charge for, such as disbursements, must also be specified in the by-law.

6 FEES CHARGED BY PLANNING BOARDS (NORTHERN ONTARIO)

Section 68 of the new Act does not empower planning boards in northern Ontario to charge fees. Ontario Regulation # 481/83, passed pursuant to subsection 69(d) of the Act provides Planning Boards with the same authority. Prior to passing a tariff of fees by-law pursuant to Ontario Regulation # 481/83, planning boards should consider the matters set out in this Guideline.

7 CONCLUSION

The provisions and principles established by section 68 of the Planning Act allow municipalities enough flexibility to devise a tariff of fees by-law to meet their specific needs. The appeal mechanism established in subsection 68(3) means that municipal councils should carefully consider the content and resulting fee structure. Prior to passing a tariff of fees by-law, consultation with your municipal solicitor and other appropriate municipal officials should occur.

* These figures are provided for illustrative purposes only. They do not reflect actual calculated costs and should not be used as standards.

For further information contact any of the following offices of the Ministry of Municipal Affairs and Housing:

Community Planning Advisory Branch

Central Region
47 Sheppard Avenue East
2nd floor
Willowdale, Ontario
M2N 2Z8
Telephone: (416) 224-7635
ZENITH 52650

South East Region
244 Rideau Street
3rd floor
Ottawa, Ontario
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Telephone: (613) 566-3801
ZENITH 52650

South West Region
495 Richmond Street
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London, Ontario
N7A 5A9
Telephone: (519) 673-1611
TOLL FREE 1-800-265-4736

North East Region
1191 Lansing Avenue
Sudbury, Ontario
P3A 4C4
Telephone (705) 560-0120
TOLL FREE 1-800-461-1193

North West Region
435 James Street South
Thunder Bay, Ontario
P7C 5G6
Telephone: (807) 475-1651
ZENITH 52650

Plans Administration Branch—North and East

777 Bay Street
14th Floor
Toronto, Ontario
M5G 2E5
416-585-6014

Plans Administration Branch—Central and Southwest

777 Bay Street
14th Floor
Toronto, Ontario
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Local Planning Policy Branch

777 Bay Street
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Toronto, Ontario
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416-585-6225

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2. Local Planning in Northern Ontario (January 1983)
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4. Community Improvement (March 1983)
5. Working with the New Regulations (August 1983)
6. Official Plan Policies on Public Notice (August 1983)
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Ontario

THE PLANNING ACT

GUIDELINE 8

Zoning and Other Land Use Controls

October 1983

1 INTRODUCTION

The purpose of this guideline is to explain the provisions in the Planning Act 1983 relating to zoning and a number of other land use controls. The legislation provides a clearer distinction between the various purposes for which zoning is used. It introduces a variety of long and short-term mechanisms so municipalities can select the controls that are most appropriate for specific local circumstances.

The long-term zoning provisions enable local municipalities to zone existing uses that are stable and to pre-zone lands to future uses where the uses can be pre-determined. These provisions include standard zoning as contained in section 34 of the Planning Act, as well as holding and bonusing provisions. Use of bonus and holding provisions will depend on municipalities having official plan policies setting down the basis for their use. This guideline will also assist municipalities in preparing these official plan policies.

The short-term provisions include interim control by-laws and temporary use zoning by-laws, both of which imply a time-related control.

In including this variety of planning tools, the legislation recognizes practices that have been used in the past by municipalities to control development in unique situations. Interim controls, holding provisions, bonusing provisions and cash-in-lieu of parking provisions have all been used in various forms by some municipalities even though the legislation did not specifically provide for them and traditional zoning powers were not considered to be adequate to achieve certain desired objectives.

Site plan control by-laws will be dealt with in a subsequent guideline.

2 ZONING BY-LAWS – SECTION 34

Purpose – The zoning by-law defines the uses permitted in specific locations within a municipality and the specific development standards relating to those uses. These standards must be precise and not open to varied interpretations. All the provisions must conform or be in agreement with the more general policies in the municipal, regional and/or county official plans, as appropriate.

Process – Before passing a by-law, municipal councils must inform the public of their intention and hold a public meeting so that any person can make his views known on the by-law (subsections 34 (12 and 13)). Notice[1] of the meeting must be given at least 30 days in advance unless the municipality has set out in its official plan the circumstances in which reduced public notice requirements would be more appropriate.[2]

At the conclusion of this public notice process, subsection 34(16) allows council to make a **minor** change to the proposed by-law without giving further notice. However, subsection 34(16) should be read in conjunction with section 60 which requires that council provide persons a fair opportunity to present their views before a by-law is passed. Therefore, the use of the section should be limited to non-substantive changes to a proposed by-law, for example, minor technical or "housekeeping" matters, and correction of errors.

1. See Regulation 404/83 – August, 1983, and Guideline 5 "Working with the New Regulations".
2. See Guideline 6, "Official Plan Policies on Public Notice" for assistance in preparing these official plan policies.

Once a by-law has been passed, the municipal clerk **must** give notice of its passing,[3] within 15 days. The first day of this period is the day **after** the decision is made. The appeal period for zoning by-laws is 35 days starting **on** the day the municipality passes the by-law. If no appeal is received within this time, the by-law is considered to have come into force on the day it was passed.

The exception to this rule (Subsection 34(19)), is where a by-law is passed to implement an adopted official plan amendment. The by-law may not conform to the local approved official plan at that time, but would conform when the official plan amendment is approved. If the official plan amendment is approved, then the by-law is considered to have conformed on the day it was passed (Subsection 24(2)). The by-law will also be considered to have come into force on the day it was passed. If the official plan amendment is not approved, then the by-law could not come into effect. Therefore, the by-law should be repealed. Similarly, if an official plan amendment is modified at the time of its approval so that the by-law does not conform, or there is some question as to its conformity, council has two options:

- It could repeal the by-law and pass another that clearly conforms to the official plan amendment as modified and approved.

- It could pass an amending by-law bringing the by-law into conformity to the official plan amendment.

In choosing these options, council may want to consider adopting appropriate alternative public notice policies that would allow reduced notice provisions in situations where such a "housekeeping" by-law amendment is being processed. Council can, however, avoid the situation of having the implementing by-law's coming into effect dependent on the approval of the official plan amendment. Council can choose to give notice and hold a meeting simultaneously for an official plan amendment and the implementing by-law, but delay the passing of the by-law until after the official plan amendment is dealt with. The by-law could then be finalized taking into account the amendment as approved and/or modified. Depending on the extent of the changes required, Council can determine whether further notice would be required prior to passing the by-law.

If the official plan amendment is referred to the Ontario Municipal Board, in whole or part, council can wait until the Board makes its decision and the by-law can be passed in a form reflecting the Board's decision.

Notice of appeal on a by-law must be filed with the municipal clerk. The appeal must outline the objection to the by-law and reasons for the objection. Any by-law that has been appealed must be dealt with by the Ontario Municipal Board.

Upon receipt of an appeal the clerk must send to the Ontario Municipal Board:

- notice of the appeal;

- a copy of the by-law certified by the municipal clerk;

- a sworn declaration or affidavit certifying that the notice requirements of the by-law's passing were complied with;

- the original or true copies of all written submissions and material relating to the submissions received before the by-law was passed;

- additional material requested by the Board.

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3. See Regulation 404/83 "Notice Requirements – Zoning By-laws", August, 1983.

Generally the decision of the Board is final. The only time a decision of the OMB is **not** final is where the Minister of Municipal Affairs and Housing advises the Board, at least thirty days before the OMB hearing, that a matter of provincial interest may be adversely affected by the by-law before the Board. If the Minister has advised the OMB in writing that this is the case, the Board cannot issue an order on the part or parts of the by-law identified by the Minister as being of provincial interest. Instead, the Cabinet is required to deal with the decision of the Board by confirming, varying or rescinding it or by making changes to the by-law directly.

If no appeal is filed, the clerk will prepare an affidavit or declaration stating this fact, and the by-law will come into effect – subject to the provisions discussed earlier pertaining to subsections 34(19) and 24(2).

3 HOLDING PROVISIONS – SECTION 35

Purpose – The holding provisions enable a municipality to identify, in a zoning by-law, the uses that are ultimately intended for specific lands, but to delay their actual development until some later time when identified conditions are met. By using the holding symbol "H" or "h", in conjunction with a land use category, in the by-law, the municipality can clearly state its commitment to having the lands developed for the use(s) permitted in that land use category at an appropriate time in the future.

These provisions are intended to be applied in those situations where the municipality **knows** precisely what uses will be developed in the zoned area. In a situation where the ultimate use is unclear or unknown, council may wish to apply traditional zoning methods such as the use of a non-development zone. When the ultimate use of the land is determined, the by-law would be amended through the full amendment process to permit the use.

Process – The imposition of the holding provision must follow the procedures set out for zoning by-laws under section 34. However, to remove the holding symbol the municipality is only required to give notice of its intent to pass the by-law to remove the symbol.[4] This is because the land use for the site would have already been established at the time the area was zoned with the holding provision.

If council refuses an application to remove the holding symbol or does not make a decision within 30 days of the clerk's receipt of the application, then the applicant can appeal to the Ontario Municipal Board. The Board must then hold a hearing and make a decision to either dismiss the appeal, amend the by-law to remove the symbol or direct the municipality to amend the by-law in accordance with the Board order.

Preparation of Official Plan Policies – A municipality cannot use these holding provisions unless official plan policies relating to their use have been approved. In preparing such policies the municipality must first decide why and in what circumstances it wants to use this special authority. The policies themselves should be general enough to apply whenever the holding provision is to be used. Site specific official plan amendments should not be necessary each time a holding by-law is passed. Holding policies should deal with three main issues:

- Objectives of the municipality in using holding provisions

4. See Regulation 403/83, "Notice Requirements – Removal of Holding Symbol from Zoning By-law", August, 1983.

The official plan policies should outline the municipality's objectives or reasons for using holding provisions. Situations in which holding provisions might be appropriate could include:

- the phasing of development or redevelopment;

- pending the provision of water, sewer or other services;

- the implementation of policies for locations or developments requiring special design features.

Other circumstances in which this type of zoning might be used would depend on the needs of the municipality.

- Policies regarding use and removal of holding provisions

To indicate how a municipality intends to meet its objectives respecting the use of holding provisions, the official plan should contain policies relating to:

- *locational criteria* – how will sites or areas to be subject to the holding provisions be selected? The policies addressing this question can be of a general or specific nature depending on the objective or reason for using the holding provisions. In some cases the holding provision may apply to areas of land in different parts of a municipality; in other cases, to a single area. The application would depend on local circumstances. Some suggestions for identifying locations could include:

  * land use designation in a certain location;

  * unserviced lands in specified areas;

  * lands adjacent to a particular use or activity;

  * lands accessing a certain roadway or fronting on a waterway;

  * undeveloped lands in all or part of a municipality;

  * lands at a particular intersection.

  In some cases the municipality may wish to identify the affected areas on the official plan schedule.

- *removal of holding provision* – It is important for a potential developer or applicant to understand when and under what conditions the holding provision will be removed from the lands in which he has an interest. The timing of the removal would be dependent on meeting the conditions identified by the municipality. The official plan should therefore address:

  * the conditions that must be met before development is permitted to proceed;

  * the timing, if known, of the anticipated removal of the holding provision;

  * the responsibility or role of the developer/applicant and municipality or other agency in meeting conditions or in demonstrating that the conditions for removing the holding provision have been met.

- Implementation through the by-law

The holding provisions are implemented through the municipal zoning by-law. The municipality must zone a property for its intended use and add the holding symbol to the zone category to indicate that the development of the site cannot proceed until the symbol is removed. To avoid any confusion and problems of conformity the municipality must specify in the official plan what uses or kinds of uses will be permitted **in the interim period** until the holding symbol is removed.

The official plan's policies relating to the use of holding provisions should indicate that the actual holding by-law will:

- identify lands subject to holding provisions by adding the holding symbol to the zone category.

- specify the land uses to be permitted in the interim, as well as any regulations applying to these lands, during the period of the holding provision being in place. This can be done by incorporating the holding zone in the text of the by-law, as well as identifying it on the zoning map. For example, a Residential-H zone would be shown on the map and the text would contain a Residential-H zone category. The category would list the uses or standards to be permitted in the interim.

  Interim uses would likely be limited to existing uses unless the municipality felt confident that some other similar use would be compatible with the ultimate use of land. When the H is removed, these Residential-H zone provisions would no longer apply. The Residential zone provisions would then apply.

As a general rule, the level of detail in these holding policies will depend on the intended application. The principle to be adhered to is to inform the public of the circumstances in which the holding provisions would be used. Since removal of the "H" is not subject to the same appeal process as a regular zoning by-law amendment, people must know whether they will be affected and what their rights and responsibilities are if they are affected.

What about the status of existing holding by-laws? Because there are a variety of existing holding by-laws and official plan policies, there is no standard answer to this question. Municipal solicitors should be consulted to advise councils on what action should be taken in specific local circumstances.

Generally, however, the status of the existing policies will be dependent on their nature and intent. Do the existing policies do what is envisaged by section 35; that is, the ultimate use is identified but its development is being delayed for some reason. If this is the case, the municipality should adopt appropriate official plan policies to reflect the new provisions and bring its by-law into conformity with the official plan. Future applications of a hold in this situation will have to comply with the legislation. Therefore, updating existing policies is preferable to maintain consistency.

If the municipality chooses to retain its existing system where the holding symbol is different than what is called for in section 35, it **should not** use the provisions of subsection 35(4) to remove the holding symbol. Rather, the holding symbol should be removed by the full rezoning process in accordance with subsections 34(11) to (26). The reason is the lack of third party appeal possibility under the Planning Act with respect to removal of the hold. Someone may not have objected to the original holding by-law on the understanding that he could appeal the amending by-law to remove the holding symbol.

The municipality's existing by-law may also contain general holding provisions for lands where the future use is not known. If this is the case, traditional methods of zoning may be quite appropriate.

4 INCREASED HEIGHT AND DENSITY (BONUS) PROVISIONS – SECTION 36

Purpose – The increased density or bonus provisions in the legislation enable a municipality to award increases in density and height of development in return for meeting specific municipal planning objectives. The provisions are intended to provide incentives to encourage private sector involvement in the achievement of stated public objectives, such as the provision of special or assisted housing, the preservation of buildings with historical or architectural value or the provision of additional open space or other service.

The bonus provisions provide a legislative framework for negotiating site specific development arrangements with a developer by giving him the option of either developing to the standard zoning provisions or receiving the height or density bonus in return for providing identified facilities. If the developer chooses to take advantage of the bonus option an agreement would likely be needed between the developer and the municipality.

Process – The bonus provisions must be incorporated in a by-law passed under section 34 of the Planning Act. Therefore, all the notice, approval and appeal provisions of that section apply. Prior to the passing of a by-law containing such provisions, appropriate policies must be incorporated in the official plan. Where the bonus policies are set out in the official plan and by-law, and all the requirements are met by a developer, the density and/or height bonus must be granted without requiring a rezoning to permit the additional density and/or height. An agreement would be entered into addressing the facilities, services or matters, if the municipality so required.

Preparation of Official Plan Policies – The official plan policies must be carefully considered in order to ensure that the municipality's intentions with respect to allowing height and density increases in development in a neighbourhood, are not misunderstood by its residents. It should be clear that such bonus awards will be made in defined circumstances. In determining these circumstances the municipality should also keep in mind that use of the bonus provisions will be most effective and the increase will be more acceptable to the public, if the neighbourhood absorbing the increase will also enjoy the benefit of the facility or service to be provided.

The official plan should address the following points relating to the use of the bonus provisions:

- Objectives of the municipality in using bonus provisions

  At a minimum, the official plan should identify the general circumstances in which the bonus provisions might apply. Specifically, the objectives the municipality wants to achieve in using the bonus provisions should be identified. For example, the municipality's official plan may contain various objectives relating to a range of municipal interests, such as:

  - provision of a wide range of housing types including family type housing or assisted housing;
  - preservation of the unique character of certain parts of the municipality containing buildings with historical or architectural significance;
  - encouraging innovative building designs;
  - provision of community and open space facilities such as small parks, day care centres, community centres, recreational facilities.

If the municipality wishes to use bonus techniques to achieve such objectives, statements to this effect should be included in the official plan.

- Implementation

Since bonus provisions are actually implemented through the zoning by-law, it is important that the by-law contain enough information so that a prospective developer knows what his development options are. Therefore, the official plan's implementation policies should require **that the by-law**:

- contain the detailed development standards that would apply when the bonus is awarded. If the bonus is not awarded, the standards of the basic zoning category assigned to the site would apply. These standards, of course, must comply with the policies in the official plan.

- set out how these bonus standards relate to the conditions ("facilities, services or matters") that are required to be met in order for the bonus standards to apply to the site.

- address the matters to be dealt with in the agreement. The reference in the by-law should not make the bonus award conditional on entering into the agreement. Rather, it should be clear that as part of the bonus being awarded and the bonus standards applying, the agreement will be entered into.

- be written in such a way as to ensure that discretion cannot be applied. If the conditions to be met and the bonus to be awarded are all agreed to and set out in an agreement, a rezoning should not be necessary.

In determining appropriate sets of bonus standards, several points should be kept in mind:

- the extent of the increase in height/density should be compatible with adjacent development.

- the bonus density and height proposed must conform with the municipality's official plan.

- the municipality's expectations of the developer in terms of services to be provided or conditions to be met should be realistic, in terms of marketability, general economics and the needs of the municipality.

- specific or unique local needs and expectations should be taken into account.

As the success of bonus provisions is dependent upon a developer being given enough incentive to consider using them it is important to ensure that the bonuses are worthwhile. At the same time, it is essential to ensure that whatever additional height or density is awarded will not overload streets or other public services upon which the official plan is predicated.

5 INTERIM CONTROL BY-LAWS – SECTION 37

Purpose – The interim control by-law is intended to allow the municipality to control development in areas where it wishes to review the existing land use and development policies, or where new policies will be developed. The interim control by-law is designed

to prevent or at least limit new development pending completion of a planning study. The by-law should identify the purposes for which the land can be used in the interim. These interim provisions must conform to the official plan in effect.

An interim control by-law should not be confused with a holding by-law. The latter specifies the uses that will eventually be allowed on certain lands once stated conditions are met. The interim control by-law, on the other hand, is a land use control that constrains development rights on certain lands for **a set time period**, until studies to determine the eventual future land uses are completed. Once these studies are done, the municipality's zoning by-law would have to be formally amended to reflect the desired use. In other words, interim control allows a municipality time to review land use policies and not have possible future objectives compromised by development occurring that may not be consistent with those future objectives. The interim control by-law is **not** intended to be used to achieve random freezes on land for indefinite periods of time.

Process – A municipality can pass an interim control by-law to control development for a time period of **up to one year** (from the passing of the by-law). That by-law can, however, be amended to allow the period to extend to up to 2 years from the time of the passing of the interim control by-law. If the municipality does not complete the study and pass a zoning by-law under section 34 within the time period set out in the interim control by-law, or the amendment, then the provisions of the zoning by-law that applied prior to the interim control by-law's coming into force, again come into effect. In this situation, where the interim control by-law lapses, council cannot pass another interim control by-law for the same lands for at least 3 years.

The interim control by-law cannot, however, prohibit any use that existed legally prior to the passing of the by-law nor any building for which a building permit had been issued (and not revoked) prior to the passing of the by-law.

Although the municipality is not required to give prior notice regarding the passing of an interim control by-law, notice must be given within 30 days of the by-law's passing in accordance with Regulation 405/83 entitled "Notice Requirements: Interim Control By-laws". The same requirement applies to a by-law extending the period the by-law is in effect. The appeal period is 60 days from the passing of the by-law and any appeals must be filed with the municipal clerk. If an appeal is filed, the same provisions applying to a by-law passed and appealed under section 34 also apply. These include the municipal clerk sending a record of the appeal to the OMB, the provisions relating to the Board hearing and decision, and the procedures relating to provincial interest being identified and decided upon.

An interim control by-law comes into effect when it is passed, even if it is appealed. The Board's decision (or Cabinet's if applicable) would apply to the by-law in effect.

6 TEMPORARY USE BY-LAWS – SECTION 38

Purpose – Temporary use by-laws are intended to allow land and buildings to be zoned for temporary uses for renewable periods of up to 3 years. Temporary use by-laws are **not** intended to be used as a holding mechanism nor as an interim control measure. In other words, it is not meant to be used in a way that will prevent the use of land for some purpose. Rather, the temporary use by-laws provide a positive way to zone lands where it is known that a specific use is appropriate in the short term.

These by-laws can permit uses for a limited time span, e.g., a parking lot to be permitted for 2 years on a future office site; or, on an event basis, e.g. a fair on a shopping centre parking lot for the month of July for a three year period. In either case, the by-law must conform to the official plan in effect.

The legislation authorizes the passing of these by-laws to permit temporary uses that would otherwise be prohibited by the by-law. If it is the municipality's intention to permit such uses and these uses do not conform with the municipality's official plan, a statement authorizing the passing of temporary use by-laws in this type of situation can be incorporated in the official plan. Otherwise, the municipality would be required to amend its official plan each time a temporary use by-law is being considered if the proposed use does not conform to the official plan.

Process – A temporary use by-law is subject to the same notice, approval and appeal procedures as a zoning by-law under section 34. The by-law will likely be of a site specific nature; therefore, it will have to define the specific area to which it applies, the uses permitted for that area and the authorized time period (i.e. not exceeding **three years**). Also, council can pass another by-law to extend the temporary use for additional periods of not more than three years **each**. Temporary use by-laws can be extended indefinitely, providing that each extension is done by an appropriately approved by-law. Upon the expiry of the time period(s) authorized by the by-law, the uses or buildings that were permitted under the by-law **cannot** be continued as legally non-conforming as provided for under section 34(9)(a). Rather, the temporary uses must cease. Therefore, municipalities should be careful not to allow as temporary uses those that could become "permanent" and difficult to terminate.

7 CASH-IN-LIEU OF PARKING – SECTION 39

Purpose – The legislation introduces provisions relating to cash-in-lieu of parking similar to provisions that presently exist in some municipalities under special legislation. Section 39 allows the municipality the option of entering into an agreement with the owner or occupant of a building site exempting that person from the parking requirements set out in the by-law, and requiring that cash-in-lieu payments be made to the municipality. This option would likely be used in a situation where the municipality is prepared to reduce or eliminate the parking requirement on a particular site and to provide the required number of parking spaces in a municipal parking facility on another site with the funds obtained in lieu of the parking.

The application of the cash-in-lieu of parking provision is based on an agreement entered into by the owner or occupant and the municipality.

This section is not intended to replace or conflict with the minor variance process. A committee of adjustment would make the decision that the parking requirements on a particular site could be varied slightly through the minor variance process. On the other hand, section 39 authorizes council to enter into an agreement exempting an owner to the extent determined in the agreement from either providing or maintaining the parking facilities in return for a specified cash payment. The purpose and effect of the two processes are quite distinct.

Process – The agreement entered into would have to elaborate on how the money would be paid to the municipality in return for the granting of the exemption. In addition, the agreement must include the basis for determining how the payment would be calculated. The details of this agreement would have to be negotiated between the municipality and the developer. This agreement may be registered against the land to which it applies. Once

registered, the money that comes due for payment to the municipality can be deemed to be taxes due on the land and can be collected as such. Once the payments have been made, the municipal clerk, when requested by the landowner, must certify that the money has been paid and the agreement has been terminated. This certification must be in a form registerable in the appropriate land registry office.

Council, in determining whether to use this alternative, should consider a number of issues:

- the effect of the reduced level or lack of parking facilities on a particular site on the surrounding neighbourhood;

- in situations where the impact may be significant, the option of giving public notice of council's consideration of the cash-in-lieu of parking agreement;

- the demonstration of equitability and fairness with respect to the calculation of the cash-in-lieu payments.

The money received by the municipality under the agreement must be paid into a special account and it must be applied for the same purposes as the reserve fund set up under paragraph 55[5] of section 208 of the **Municipal Act**. The monies in the account can be invested in such securities as a trustee may invest under the **Trustee Act**.[6] The earnings derived from the investment of this money would become part of the special account. The municipal auditor would report on the activities and the position of the account in his annual report.

CONCLUSION

The purpose of this guideline is to provide assistance to anyone who may be using the sections in the new Planning Act dealing with zoning and other land use control mechanisms. It is a guide only and not a mandatory statement of how all zoning and land use control issues are to be dealt with. A municipality's zoning by-law and official plan policies relating to these matters should be prepared in accordance with local needs.

Any questions not addressed in the guideline should be directed to your solicitor or to the various branches of the Ministry of Municipal Affairs and Housing.

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5. Sub-paragraph (f) under paragraph 55, in respect of municipal parking lots and parking facilities, sets out that the reserve fund can be used for (i) payment of interest and principle in respect of debentures issued; (ii) the acquisition, establishment or improvement of additional parking facilities; and (iii) for any other purpose that council approves.

6. The applicable sections are sections 26 and 27 of the Trustee Act.

For further information contact any of the following offices of the Ministry of Municipal Affairs and Housing:

Community Planning Advisory Branch

Central Region
47 Sheppard Avenue East
2nd floor
Willowdale, Ontario
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South East Region
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3rd floor
Ottawa, Ontario
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Telephone: (613) 566-3801
ZENITH 52650

South West Region
495 Richmond Street
7th floor
London, Ontario
N7A 5A9
Telephone: (519) 673-1611
TOLL FREE 1-800-265-4736

North East Region
1191 Lansing Avenue
Sudbury, Ontario
P3A 4C4
Telephone: (705) 560-0120
TOLL FREE 1-800-461-1193

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Thunder Bay, Ontario
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777 Bay Street
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Plans Administration Branch – Central and Southwest

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Cette publication est également disponible en français.

Ontario
Ministry of
Municipal Affairs
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Claude Bennett, Minister

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Ministry of
Municipal Affairs
and Housing

Ontario

THE PLANNING ACT

GUIDELINE 9

Official Plans and the Use of Site Plan Control

August 1984

This series of guidelines explains:

- **those provisions of the legislation which are either new or significantly changed from the former Planning Act, and**

- **planning issues of interest to municipalities and the public.**

The guidelines should assist in understanding and applying the new legislative provisions, but are advisory only. While some guidelines include proposed methods of applying these provisions, they do not describe the *only* ways of using them.

The guidelines should *not* therefore be interpreted as statements of government policy.

1 INTRODUCTION

This guideline discusses the changed relationship of official plans to the use of the authority given by site plan control by-laws.

The guideline has been prepared mainly for municipalities now using site plan control and who wish to prepare official plan provisions in order to continue to use that authority.

The Planning Act, 1983 makes the use of site plan control contingent on specific official plan provisions. Most municipal official plans do not contain such provisions since these were not required by the former Planning Act. Section 40 (site plan control) of the Planning Act, 1983 was not proclaimed in effect on August 1, 1983 so that municipalities would have time to prepare these provisions.

The requirement of official plan provisions on site plan control has two significant effects. First, public notice of the proposed use of site plan control is now necessary. Second, background material on site plan control is to be made available to the public.

Depending on any approved official plan provisions on site plan control when section 40 of the Planning Act, 1983 is proclaimed, new site plan control by-laws and new agreements under existing site plan control by-laws may not be possible. Site plan control agreements made before proclamation of section 40 continue in effect after proclamation provided they are consistent with the former Planning Act.

Some municipalities may feel their existing official plans have adequate site plan control provisions to meet their needs and the requirements of the Act. Municipalities should use this guideline and consult the municipal solicitor about the resultant legal status of site plan control by-laws after section 40 of the Act comes into force.

This guideline discusses alternatives to satisfy the official plan requirements found in three sections of the Act:

- Section 40(2) — requiring a proposed site plan control area to be shown or described in the official plan.

- Section 40(5) — requiring a specific area to be "designated" in the official plan to permit a local municipality to require drawings of elevation and cross-sections for residential buildings of less than 25 units.

- Section 40(9) — requiring that if a highway widening is to be taken by dedication as a condition of site plan approval, an official plan must show or describe the "highway to be widened" and the "extent of the proposed widening."

Before any site plan control authority given by the Planning Act, 1983 can be used the two requirements of section 40(2) must be met. A proposed site plan control area must be shown or described in an official plan and a site plan control by-law must be passed by the local municipality.

Section 40(8) also gives upper tier municipalities some authority related to site plan control. Where a proposed development abuts a highway within its jurisdiction, the upper tier municipality can enter into an agreement covering road widening and access matters. This authority can be used only after a local municipality has a site plan control by-law in effect and has advised the upper tier municipality of the proposed development (as required by the Act).

2 THE PROPOSED SITE PLAN CONTROL AREA: SECTION 40(2)

Identifying the Proposed Site Plan Control Area

The requirement that a proposed site plan control area be shown or described in an official plan before a local council passes a site plan control by-law can be satisfied in many ways. Regardless of which method is used, landowners should be able to determine from the official plan whether they may be subject to a site plan control by-law. The official plan must state specifically that a mapped and/or described area is a proposed site plan control area.

The proposed site plan control area may be shown or described by any of the following ways or combinations:

— a mapped area including all land uses permitted in that area;

— a mapped area combined with a list describing included and/or excluded land uses;

— a description of specifically included and/or excluded land uses if the description is consistent with the land use terminology of the official plan or zoning by-law (new maps would not be needed with this approach);

— a statement describing the entire municipality as a proposed site plan control area except for specific exempted areas and/or uses which are shown or described;

— a description of special land uses with unique meaning in the official plan; for example, "zero lot line" housing, "prestige" industrial or "central business area" uses.

A land use may be included in a proposed site plan control area conditional on the type of development proposed. For example, where existing buildings associated with a land use are only being renovated or slightly enlarged, such a land use could be excluded from a proposed site plan control area. Also, all new buildings or structures below a specified size could be excluded from a proposed site plan control area.

Background Material

Supporting information helps both the public and the official plan approval authority understand the basis for the intended use of site plan control.

Most of this material is more appropriate as a preamble or an appendix to the official plan provisions on site plan control rather than as part of those provisions. Regardless of whether the official plan provisions are for a lower or upper tier official plan, the background material should address these four items:

- Overall Objectives for Site Plan Control Use

  If these objectives are not in the official plan provisions they should be in the background material.

  Some examples of municipal objectives in using site plan control are:

  — To improve the treatment of site plan details and maintain a consistent municipal standard in a site plan control area;

— To ensure safety and efficiency of vehicular and pedestrian access;

— To minimize land use incompatibility between new and existing development;

— To provide functional and attractive on-site facilities such as landscaping and lighting;

— To control the placement and provision of required services such as driveways, parking, loading facilities and garbage collection;

— To secure easements or grading and alterations necessary to provide for public utilities and site drainage; and

— To ensure that the development proposed is built and maintained as approved by council.

- Agricultural Areas

Where site plan control is to be applied to farm operations in agricultural areas, reasons for including these lands in the proposed site plan control area should be stated.

While site plan control can properly be applied to rural uses such as farm implement dealerships and large grain drying operations, it is generally an unnecessary intervention with individual farm operations. This position is explained further later in this guideline.

Where council wishes to include individual farm operations in the proposed site plan control area, it is important to state specific reasons.

In agricultural areas with both upper and lower tier official plans, local councils are encouraged to consult with the upper tier council to establish effective control over matters of interest to upper tier municipalities which involve site plan control of non-farm land uses in agricultural areas.

- Upper and Lower Tier Municipal Co-ordination

The choice of including the proposed site plan control area in the upper and/or lower tier official plan should be discussed.

The authority to pass site plan control *by-laws* is an exclusive local power. Therefore, in most cases the local official plan can most reasonably show or describe the proposed site plan control area. This would ensure the most straightforward public notice. However, where there is no local official plan the proposed site plan control area can appropriately be shown or described in the upper tier official plan.

- Studies and the Principle of Development

In preparing site plan control agreements it may be necessary to examine specific aspects of a proposed development such as drainage or traffic considerations.

Lands should be included in a proposed site plan control area only when the official plan clearly permits identified uses. For example, where the official plan permits a use within an area subject to specifically locating the use by applying stated criteria, such an area would properly be included in a proposed site plan control area. Official plan and zoning by-law amendments, rather than the site plan control process, are the appropriate tools for changing the committed principle of development.

Beyond any written background material, municipalities should be satisfied that they can answer the following points affirmatively. These may be at issue in either an appeal by the public of their proposed site plan control area in the official plan or the appeal by landowners of municipal refusals to approve plans submitted as part of the site plan control process:

— Is there a clear municipal need for the condition or facility being required by site plan control?

— Is the cost of meeting the municipal condition equitable in relation to the cost of the development proposed?

— Is the facility or condition required largely because of the proposed development?

— Are landowners of similar properties equally subject to site plan control, and with consistent administration?

Submission Requirements

All of the mandatory requirements for submitting official plans as outlined in section 17 of the Act apply to the site plan control provisions of proposed official plans and amendments. Both new official plans and amendments should be accompanied by the background material described to support the proposed site plan control area(s).

Situations to Avoid

Site plan control is an important and flexible planning tool. However, reasonable limits to its use will be applied by the ministry in its review and approval of proposed official plan provisions concerning site plan control. Municipalities should be aware of these limits in preparing a proposed site plan control area.

Proposed site plan control areas exceeding the limits outlined under the headings Zoning Conflicts and Architectural Control are discouraged. If proposed site plan control areas include agricultural lands, reasons supporting this should be submitted.

Zoning Conflicts

Section 40(6) states that the zoning power to limit height or density is specifically excluded from regulation through site plan control. This restriction has two implications.

First, site plan agreements clearly cannot regulate height or density.

Second, the restriction means that development permitted by the zoning by-law cannot be prohibited by the site plan control provisions. This is reinforced by the wording of section 40(4) allowing council to approve plans and drawings for proposed "development."

Site plan control should not result in a landowner being unable to develop at all or losing development potential assured by zoning. If there is concern about the use of the land the matter should be resolved in the official plan and zoning by-law.

There are several examples of official plan provisions that may not be approved if it cannot be made clear in the official plan and zoning by-law that development is possible concurrent with the use of site plan control. These are:

— Special Study Areas

Site plan control can be an extremely useful tool if used properly in these areas. It is appropriate to exercise this control where required studies have established the principle of development and the official plan and zoning by-law have already set height and density restrictions. Site plan control could then be used to address specific siting concerns.

It is not appropriate to include these areas in proposed site plan control areas if the principle of development has not been determined and established at least in the official plan. Nor should these areas be included in a proposed site plan control area if site plan control is intended in order to carry out studies which could change or remove the principle of development. Requiring broad policy studies in the site plan control process could inappropriately generate height or density changes. Such studies could even preclude development entirely by finding that the site would best be used for purposes other than that proposed.

If broad studies are needed in applying site plan control, the official plan should commit the municipality to do them and then the official plan and zoning by-law should be amended as necessary.

— Environmentally Sensitive and Flood Prone Lands

Official plan policies for development on or near these lands are often linked to site plan control. Detailed site plans can be valuable in locating buildings to overcome flood or environmental hazards or to protect environmentally sensitive areas from disruption.

However, site plan control would be inappropriate if its use would identify constraints precluding development already committed by the zoning by-law.

As discussed earlier, supporting information confirming the principle of development should accompany official plan provisions proposing site plan control in environmentally sensitive and flood prone areas. If this documentation is not available, the official plan should address how the required general studies are to be done. If the official plan indicates that development is or will be feasible, these lands can appropriately be designated as proposed site plan control areas.

Architectural Control

Section 40(4) lets council approve location plans and conceptual drawings of a proposed development. However, some aspects of building design are specifically excluded from site plan control. These are interior areas (except for public walkways, stairs, escalators and elevators), the colour, texture and type of materials, window detail, construction details, architectural and interior design.

The ministry cannot approve official plan provisions indicating detailed architectural control as an intended objective of site plan control. Such an application clearly would be contrary to the intent of the Act.

Agricultural Areas

Site plan control can be usefully applied to many rural uses such as feedmills or farm implement dealerships even though it is most effectively used in urban areas.

However, as a way of regulating farm building location and farming operations, site plan control is an unnecessary interference with normal farm practice. If farm building location is a local issue, it can be handled using the Agricultural Code of Practice, the official plan and zoning by-law. For these reasons, it is unlikely that land used for farming operations will be approved for inclusion in the official plan proposed site plan control area unless sufficient justification can be provided.

However, there may be appropriate uses of site plan control in the rural area. Non-farm activities such as commercial or industrial uses and development in flood-prone or environmentally sensitive areas are examples. Municipalities should provide specific reasons for this type of application of site plan control in non-urban areas.

3 THE SMALL RESIDENTIAL BUILDING DESIGNATION: SECTION 40(5)

The ability of a municipality to require the submission of drawings showing plan, elevation and cross-section views as provided in section 40(4) of the Act is generally limited to large residential and non-residential buildings. It may, however, be applied to small residential buildings (i.e. less than 25 dwelling units) if a specific reference is made in the official plan.

Submission Requirements

Section 40(5) is generally self-explanatory if the requirements of the legislation are met. Background information may be provided by the municipality but is not required.

If a municipality wishes these drawings submitted as defined in section 40(4) for small residential buildings, a specific area must be added to the proposed site plan control area. The legislative requirements of section 40(5) can be addressed by designating a specific area using any of the alternatives for showing or describing the proposed site plan control area discussed earlier. Whether the official plan text or map is used, the text should make it clear that the area shown or described is a proposed site plan control area where drawings described in paragraph 2 of section 40(4) will be required.

4 HIGHWAYS TO BE WIDENED: SECTION 40(9)

This part of the guideline outlines how municipalities may satisfy the official plan requirements of section 40(9) so highway widenings can be secured as a condition of site plan approval.

Section 40(9) requires that the highway to be widened be shown or described in an official plan as a highway to be widened and the extent of the proposed widening similarly shown or described before any owner may be required to provide a widening.

The authority to require highway widenings as a condition of site plan approval is given both to local municipalities under section 40(7) and to counties and regional, metropolitan or district municipalities under section 40(8).

A municipality may obtain a highway widening dedication as a condition of site plan approval from a landowner only if these criteria are met:

- The land is within a proposed site plan control area shown or described in an approved official plan.
- The local municipality has enacted a site plan control area by-law.
- Development as defined in secction 40(1) of the Act is proposed for the land.
- The land abuts a highway that meets the criteria of section 40(9).

Identifying the Highways to be Widened and the Extent of the Proposed Widening

There is no standard approach or required background material to meet the requirement that both the highways to be widened and the extent of the proposed widening be shown or described in the official plan.

While each municipality has unique road widening needs, the following criteria should be considered in preparing the official plan provisions:

- The official plan provision should clearly notify landowners that they may be required to give up a portion of their land for highway widening without compensation as a condition of site plan control before development approval.
- Landowners should be able to reasonably determine from the official plan that no more than a specific maximum amount of land may be required as a highway widening by dedication. Exact dimensions of the extent of the highway widening, as shown by a survey, are not required.

The following points may help municipalities address section 40(9) of the Act:

- To show the highways to be widened, the official plan site plan control provisions could refer to the highway or transportation map already defining road types and proposed maximum right-of-way dimensions. If this is done, the site plan control text should make it clear that all or specifically identified highways on the map cited are highways to be widened. The highway map must also be part of the approved official plan and not an appendix.
- In addition, if there is a table of rights-of-way, this may be used to show the extent of the proposed widenings.

  In this case, the site plan control policies could provide that the right-of-way widths in the table are the largest widenings which may be obtained as a condition of site plan approval. The policy should clarify the municipal intent in locating the widenings. For example, the policy could provide that the widening will be taken equally from both sides of the highway, measured from the existing centreline, except where topographic features necessitate taking the dedication only on one side.
- In addition to dedications to create a uniformly widened highway, the municipality may wish to indicate special widening circumstances. Some examples are:

  — widenings for standard sight triangles could be indicated by a general text statement and a reference to a map schedule showing the intersections.

— turning lanes can be described using this approach if the maximum width and length of a turning lane from the intersection can be described in a text reference and the intersections where they may be used shown on a map schedule.

— if it is clear that some extra widening will be needed for a special land use (e.g. major commercial) and no dimensions are available, it is acceptable to indicate an extra maximum dimension which will apply only for the specific land use. A dedication may then be obtained when the land is developed for the specified use without requiring further official plan amendment.

- There may be some complicated future highway widenings that cannot be adequately described in advance. In these cases, a stated amount of widening may be proposed for dedication using site plan control. However, the municipality would have to acquire the balance of the widening through other means when its dimensions are known.

- The highway to be widened must be shown in either the local or upper tier official plan. Municipalities should ensure that where a local official plan is being reviewed to allow site plan control, upper tier roads are either included in the local official plan statement, or the upper tier official plan is amended separately. In this situation, the requirements of section 27 of the Act regarding conformity of local plans to upper tier plans should be considered.

- Site plan control cannot ensure that all necessary highway widenings are dedicated to the municipality at no charge. Site plan control is not intended to implement the municipality's entire road widening plan. The actual widening surveyed when abutting lands develop may exceed the extent described in the official plan. Also, all land uses along specific highways to be widened may not be subject to site plan control. This point may be clarified, particularly in upper tier official plans, by a policy recognizing that although an entire highway may be shown as a highway to be widened only those land uses included in the proposed site plan control area are subject to a highway widening dedication under site plan control.

5 CONCLUSION

Site plan control authority remains a valuable tool under the Planning Act, 1983 in effectively regulating development in a variety of urban and rural settings.

The specific authority of a municipality using site plan control has not been significantly changed from the former Act. However, the official plan requirements for the use of site plan control enhance public notice of the intended use of site plan control. These requirements also refine the municipal authority to require detailed drawings of small residential buildings and to require the dedication of highway widenings.

This guideline is intended to help municipalities continue to effectively use site plan control as part of their land use planning program.

For further information contact any of the following offices of the Ministry of Municipal Affairs and Housing:

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2nd floor
Willowdale, Ontario
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Ontario

THE PLANNING ACT

GUIDELINE 10

Official Plan Documents: Preparation, Adoption, Submission and Lodging

August 1984

This series of guidelines explains:

- those provisions of the legislation which are either new or significantly changed from the former Planning Act, and

- planning issues of interest to municipalities and the public.

The guidelines should assist in understanding and applying the new legislative provisions, but are advisory only. While some guidelines include proposed methods of applying these provisions, they do not describe the *only* ways of using them.

The guidelines should *not* therefore be interpreted as statements of government policy.

TABLE OF CONTENTS

1 INTRODUCTION

This guideline involves the revision and combination of two previously published guidelines "Official Plan Amendments — A Guide to Their Preparation" (October, 1979) and "Procedures for the Adoption, Submission and Lodging of Official Plans and Amendments Pursuant to the Requirements of the Planning Act" (November, 1978). The revision reflects the requirements of the Planning Act, 1983.

Sections 2, 3 and 4 of this publication are designed to help municipal councils, planning boards in northern Ontario, planning advisory committees, planning or other municipal staff and consultants in preparing official plan amendments. Section 5 outlines the process for adopting, submitting and lodging official plans and amendments.

2 PREPARATION OF AN OFFICIAL PLAN AMENDMENT

This portion of the guideline describes:

- a suggested *form* for the amending document, and
- the information that should be included in an amendment.

The term "section" or "Act" as used in this guideline refers to the Planning Act, 1983. The term "council", unless otherwise indicated, includes planning boards in areas without municipal organization.

A major change introduced by the Act is the elimination of all planning areas and planning boards in southern Ontario. This change recognized the principle that municipal planning involves the making of public policy which should be the responsibility of elected representatives. The absence of planning boards in southern Ontario has caused differences in the official plan process between northern and southern Ontario. As the process is similar in most respects, only the differences have been highlighted. References to planning boards or planning areas are intended for northern Ontario.

This portion of the guideline contains a sample amendment. Each section of the sample appears on a page opposite the text describing it. Read in sequence, the examples illustrate a complete official plan amendment from the standpoint of form and information.

This publication is intended as a guide only. The Community Planning Advisory Branch (C.P.A.B.) of the Ministry of Municipal Affairs and Housing has field offices throughout Ontario. Staff is available to provide advice regarding specific amendments and financial assistance if eligible. The Plans Administration Branches, North and East and Central and Southwest, of the ministry can provide a useful draft review of amendments and can also be contacted for advice. Their addresses are listed at the back of this publication.

Legal questions concerning amendments should be directed to your solicitor.

Also listed at the back of this guideline are references to other guidelines produced by this ministry which explain in more detail the functions and processes under the Planning Act, 1983 touched on in the body of this guideline.

Official Plan

An official plan is a comprehensive statement containing objectives and policies established primarily to provide for the physical development of a municipality or an area that is without municipal organization. The plan must have regard to relevant social, economic and environmental matters. Generally speaking, each plan will vary according to the nature, objectives and opportunities of the municipality or planning area it covers.

Most plans comprise maps and a text. One of the maps is usually a land use plan showing where residential, industrial and agricultural uses are expected to locate. The text outlines development policies pertaining to the land use designations on the map. For instance, within the residential use designation the text may clarify at what density development could occur and whether parks, schools, local stores, or public utilities are permitted. It might also specify under what circumstances such uses would be permitted.

No official plan can be expected to anticipate all the future land use requirements in a community. For this reason, the Planning Act, 1983 requires every council that has adopted and had approved an official plan to determine if there is a need to revise it. This determination is required at least every five years. For this purpose, a special advertised meeting of council, open to the public must be held (section 26).

The Amendment

A municipal council, through a formal amendment process, can change any portion of its official plan. In this way, reasonable development proposals can be considered which would otherwise be discouraged because they do not conform with official plan policies.

All sections of the Planning Act pertaining to official plans also apply to official plan amendments. These include notice of public involvement, adoption, submission, lodging and appeal procedures.

The nature of official plan amendments varies from one municipality to the next or even within a single municipality.

For example, an amendment can propose changes in land use in the text or on any map(s), or refinement of the plan's development policy.

It can also outline detailed policies for an entire village or for a specific sector of a municipality.

The preparation of the amendment should consider the following principles:

- regard must be given to policy statements issued under section 3 of the Act;
- the amendment must conform to upper tier (e.g. county or regional) official plan provisions;
- the amendment should be consistent with other municipal policies; and
- it should have regard for land use compatibility, the public interest and general reasonableness.

The sample amendment presented here proposes changes to an official plan for a municipality called Smithtown. It is a fairly straightforward amendment consisting of a land use designation change in the town, and the addition of associated commercial policies. The sample is divided into sub-components. Each sub-component appears in the box opposite the text describing it.

Who Initiates an Amendment

An official plan amendment may be initiated by:

- an individual or organization wanting a certain parcel of land redesignated to permit a specific development proposal;
- council of a municipality (including a council within a planning area in northern Ontario);
- planning boards in northern Ontario;
- the Minister of Municipal Affairs and Housing if a matter of provincial interest (as set out in a policy statement issued under section 3 of the Act) is or is likely to be adversely affected by the provisions of the official plan.

Section 22 of the Act provides an appeal mechanism for any person. If council, or planning board in northern Ontario, either refuses to consider the amendment requested within 30 days or refuses to adopt it, the applicant can ask the minister to refer the proposed amendment to the Ontario Municipal Board.

The minister may refer the amendment to the Municipal Board. Should the minister refuse to refer the amendment, he must provide a written explanation for the refusal. In deciding on these proposals, the OMB may refuse the application, make the amendment or direct that the municipality make the amendment.

Who Prepares an Amendment

The council of a municipality may prepare an amendment on its own initiative based on advice of a planning advisory committee, planning board, municipal staff, consultant, or upon application for an amendment submitted by an individual or organization. In northern Ontario a planning board may also prepare an amendment.

When an individual requests an official plan amendment, a written explanation should accompany the application to council outlining:

- why the change is desirable;
- what specific changes are requested. This may be a description of the change, or a draft amendment.

Who Approves an Amendment

The Minister of Municipal Affairs and Housing (or his delegate) approves official plan amendments. The actual review of an amendment is carried out by the Plans Administration Branches, North and East and Central and Southwest, located in Toronto. Where the minister has delegated his responsibility to approve local official plans and amendments, a similar review is carried out by the delegated authority. To date, this authority has been delegated to the Regional Municipalities of Waterloo and Ottawa-Carleton.

Section 21(2) of the Act allows the minister, in writing, to waive the requirement for approval of a proposed amendment where no matter of provincial interest is adversely affected and no request for referral to the Municipal Board has been received.

Although the minister approves official plan amendments, there is an appeal mechanism, i.e. request for referral to the OMB. The minister must refer the amendment, or any part, when requested unless he considers the request frivolous, vexatious, made for the purpose of delay or not made in good faith. Once a referral is made, the OMB assumes the minister's authority and can make any decision that the minister could have made. The board's decision is final unless the minister, at least thirty days before the hearing, declares that a matter of provincial interest is or is likely to be adversely affected by the amendment. In this case, the OMB's decision is subject to consideration by the Lieutenant-Governor in Council.

Official Plan Amendment Preparation Process

There are a number of steps council must follow before it adopts an official plan amendment:

- council must ensure that the public has adequate information on an official plan amendment. This may be achieved in one of two ways:

  i) by following the process of sections 17(2) and (3) of the Act and related regulations,

  — the public meeting must be held by council or a committee of council authorized under section 106 of the Municipal Act to hold meetings on behalf of council.

  — a public meeting may be held by a planning advisory committee or staff, but such a meeting would not fulfill the requirements of the Act for the mandatory meeting by council.

  ii) by following measures for informing and securing the views of the public if alternative procedures are contained in the approved official plan (section 17(4)).

Whether the public involvement procedures of the Act and regulations or alternative procedures in the official plan are used, the following applies:

- council should provide adequate information to agencies which it considers have an interest in the matter and allow for comments within a reasonable period of time (section 17(5)).

- consideration should be given to discussing a draft official plan amendment with the Plans Administration Branch (of the Ministry of Municipal Affairs and Housing) or staff of the delegated authority which has jurisdiction for processing documents in the area.

- section 60 of the Act provides that at the public meeting any person wishing to make representation must be given a fair opportunity to be heard. Where substantive changes are made to a proposal following the public meeting, council should determine if a further public meeting or other opportunity for public input is necessary.

When council is satisfied that an amendment is suitable for adoption and takes into account the results of the meeting(s) and comments of agencies, it may, by by-law, adopt the official plan amendment. Council then proceeds as outlined in section 5 of this guideline on procedures for adoption, submission and lodging of official plan amendments.

3 FORM OF AN OFFICIAL PLAN AMENDMENT

The content of official plan amendments varies substantially from one municipality to another. However, each official plan amendment should use a consistent form. This makes reading of official plan amendments easier for those who use them — councillors, planners, lawyers, developers and the general public.

Consistency in form makes for easier understanding by the approval authority and can help to minimize the approval time. It also simplifies municipal consolidation of the amendments and the official plan.

Components

Ideally, an amendment should be divided into five distinct components. These are, in order of their appearance in the amending document:

- official documentation pages
- identification components
- Part A — The Preamble
- Part B — The Amendment
- Part C — The Appendices

By dividing an amendment into distinct components, the reader can readily see which part of the document is the actual amendment and which is supplementary material. A well-organized document also assists the reader in immediately determining the legal status of various parts of the document.

Sub-components

Most components can, and should be, divided into distinct sub-components. This practice also contributes to the reader's understanding of the document and its relationship to other official plan policies for the area. These sub-components are discussed in detail in section 4.

4 CONTENT OF AN OFFICIAL PLAN AMENDMENT

Incorporating complete, accurate information into an amendment is extremely important. Extraneous information will only confuse the reader and complicate the approval of the amendment.

In this section, the contents of an amendment will be examined in order of their suggested appearance in the amending document. This material represents the type of information the ministry feels is essential in any proposal to change the established policies.

Official Documentation Pages

There are three sub-components of official documentation pages:

(1) the certificate page (for planning boards only);

(2) the adopting by-law; and

(3) the approval page.

Together they attest to the official status of the amendment.

Certificate Page

A certificate page indicates that an amendment was recommended to council by planning board and subsequently adopted by council. It is normally inserted in the front of the amending document. Samples of certificate pages are shown at the end of section 5 (see Samples 1 and 2).

The Adopting By-law

The adopting by-law certifies that council (or planning board in the case of an unorganized area) has formally adopted the proposed amendment, *by by-law,* as required by section 17(6) of the Act.

Samples of adopting by-laws appear at the end of section 5 (see Samples 3, 4, 5, 6 and 7).

The Approval Page

The approval page certifies that the amendment has received approval from the Minister of Municipal Affairs and Housing or his delegate.

This page may be included in the official plan amendment document submitted by the municipality or planning board using the sample opposite.

If the minister modifies the document, these modifications will be set out in an appropriate approval page inserted by the ministry. Delegated authorities would use a similar method of indicating their approval.

If no modifications are made by the ministry or delegate and a properly worded approval page has been included by the municipality, this will be used.

THE APPROVAL PAGE

This amendment to the Official Plan for the Town of Smithtown which has been adopted by the Council of the Corporation of the Town of Smithtown, is hereby approved in accordance with section 17 of the Planning Act, 1983 as Amendment No. 1 to the Official Plan for the Town of Smithtown.

Date: _____ _____ (Original Signature)

Approval Authority

The Index Page

An index page referring to the page number of each component of the amendment is extremely useful. The index page is usually placed immediately following the official documentation pages.

AMENDMENT NO. 1 TO THE OFFICIAL PLAN FOR THE CORPORATION OF THE TOWN OF SMITHTOWN

INDEX

Identification of Components

The first two sub-components of an amendment are:

(1) the title; and

(2) the statement of components.

A *title* identifies the municipality or portion thereof that will be affected by the proposed amendment. The *statement of components* identifies which part of the document is the actual amendment, and which part is supplementary information.

The Title

Every amendment must be given a title. The wording of the title is standard, consisting of the number of that particular amendment, and the name of the municipality or the name of the planning area.

The name of the planning area must be the one given by the Minister of Municipal Affairs and Housing, or predecessors acting in his capacity, when the planning area was constituted. No other name should be used.

AMENDMENT NO. 1 TO THE OFFICIAL PLAN

FOR THE CORPORATION OF THE TOWN OF SMITHTOWN

The Statement of Components

Because an amending document consists of many parts, a simple statement should follow the title, indicating which parts constitute the actual amendment. An actual amendment usually proposes changes to part of the written text plus part of the map. Often the portions of the document which are not part of the actual amendment are also clarified.

PART A — THE PREAMBLE does not constitute part of this amendment.

PART B — THE AMENDMENT, consisting of the following text and map (designated Schedule "A"), constitutes Amendment No. 1 to the Official Plan for the Town of Smithtown.

Also attached is **PART C — THE APPENDICES** which does not constitute part of this amendment. These appendices (I through V inclusive) contain the background data, planning considerations and public involvement associated with this amendment.

Part A — The Preamble

The function of the preamble is to introduce the actual amendment. Since it is not part of the actual amendment, it is not incorporated as policy within the official plan.

The preamble should be broken down into three sub-components:

(1) the purpose;

(2) the location; and

(3) the basis

The Purpose

The purpose describes what change is being contemplated by a proposed amendment. It should specifically describe the main reasons for the proposal. The most common changes made by amendments are:

(1) a change to the text only; or

(2) a change to the map(s) only; or

(3) a change to the map(s) and text.

PART A — THE PREAMBLE

PURPOSE

The purpose of this amendment is:

(1) to change the land use designation of certain lands, as shown on Schedule "A" attached, from "Residential" to "Commercial"; and

(2) to set forth additional policies governing the area affected by this amendment.

The Location

The location is a straightforward part of the amending document. Its purpose is to provide quick reference to those portions of the official plan being considered for changes. The location is especially useful when numerous amendments already exist or are being proposed.

If a proposed amendment is to add a new policy, or change a portion of the text, the exact spot where the addition or change is to be inserted in the official plan should be stated. If the change involves amending a map, the location of the part being changed should be mentioned. This location is often illustrated in colour, or by cross-hatching, on a copy of the pertinent map.

It is important to remember that the description or symbols used in an amendment should be consistent with those used in the official plan. In this way, reviewing and understanding an official plan will remain easy, regardless of the number of changes the plan undergoes.

LOCATION

This amendment consists of two parts which shall be referred to as items (1) and (2).

Item (1): The lands affected by this redesignation are located on both sides of Main Street, bounded by Brown Street, Jane Street, and Green Street on the east side and by Brown Street, Molly Street, and Green Street on the west side, as shown on Schedule "A" attached.

Item (2): Special policies governing the lands affected by this amendment are to be added to Section 3 (Commercial Policies) of the Official Plan for the Town of Smithtown as subsection 3.8.

The Basis

The basis is one of the most important parts of the amending document. It establishes the rationale behind the change being sought by the proposed amendment. The basis should include:

(a) a brief outline of the studies and analysis that were carried out; and

(b) the conclusions reached regarding the need for the amendment.

The basis is often supplemented by more detailed, explanatory material in appendices, background reports and studies.

BASIS

The lands affected by this amendment are presently designated "Residential" on Schedule "A" of the official plan. At the time the official plan was prepared, it was anticipated that the area designated "Commercial" on Main Street would be sufficient in size and level of services to serve the Town of Smithtown plus the surrounding area for some years to come.

At that time, it was desirable to restrict the size of the commercial area. Should expansion prove necessary it could be effected by an amendment to the official plan.

Recent urban expansion and an increase in the tourist trade beyond that anticipated when the official plan was prepared have contributed to the need for additional commercial facilities. On several occasions local businessmen have approached council for an increase in shopping facilities along Main Street.

The blocks intended for redesignation lie adjacent to existing shops on both sides of Main Street.

Generally, the properties concerned are:

(a) quite old — in the 40 to 60 year age category; and

(b) in a poor state of repair.

Some conversion from single family dwellings to retail stores had already taken place prior to the approval of the official plan. These have been recognized as legal non-conforming uses in the official plan.

The parking situation on Main Street is unsatisfactory, especially during the summer months. To some extent this problem will be rectified by allowing for new commercial development supporting additional parking facilities. Council feels it is time to change the official plan to meet some of these demands.

(For greater detail see Appendices I - V).

Part B — The Amendment

Part B is the actual amendment. It describes in very specific terms the actual changes being made to an official plan by that particular amendment. The text and map changes described in this section become an integral part of the official plan.

If the proposal is to change the land use designation of a specific property, this should be stated. In addition, the area affected by the redesignation should be outlined on a copy of the pertinent map contained in the official plan. If the proposal also intends to apply specific development policies to the site, this section should:

(1) state what these policies are; and

(2) indicate exactly where these policies will be inserted into the text of the official plan.

On the other hand, if the amendment only intends to incorporate new general development policies into the text, no map reference is made.

In most cases the actual amendment consists of two parts:

(1) the text; and

(2) the map(s).

The Text

The text is a written description of the actual amendment. It outlines new policies or changes to existing policies to be incorporated into the official plan.

The text should be distinctly separated into smaller parts. These usually include:

(1) an introductory statement; and

(2) details of the amendment.

The Introductory Statement

The introductory statement is a simple statement confirming which part of the total document constitutes the actual amendment.

PART B — THE AMENDMENT

All of this part of the document entitled Part B — The Amendment, consisting of the following text and attached map designated Schedule "A" (Land Use Plan) constitutes Amendment No. 1 to the Official Plan for the Town of Smithtown.

Details of the Amendment

The details of the amendment describe the actual changes in detail. Great care should be exercised in writing this section because it becomes policy in the official plan once the amendment receives approval under the Act. Consequently, it should exclude material not meant to be consolidated as policy into the official plan.

Here are a few examples:

(1) If a certain phrase or policy is to be substituted in the original text of the official plan, the actual substitution must be stated.

eg. "Subsection 3.13(b) 'Designation' of Section 3 'Land Use Policies' is deleted, in its entirety, and replaced by the following: . . . . . (outline the substituted policies)".

(2) If a map is to be amended, the exact change to the map must be stated.

eg. "The 'Land Use and Roads Plan' being Schedule 'C' to the Official Plan for the Town of Smithtown is amended by redesignating the areas shown in blue on Schedule 'C' attached, from 'Open Space' to 'Hamlet' ".

(3) If special policies applicable to the land use redesignation are also proposed, they must be stated, and their proposed location within the text of the official plan must be indicated.

(4) If a new policy is to be added, its relation to the existing policies should be described.

eg. "Section 3(10)(b) of the Official Plan for the Town of Smithtown is hereby amended by adding the following new clause at the end of this section: . . . (outline the clause)".

Implementation and Interpretation

An official plan already contains provisions for describing how the plan will be put into effect and for interpreting its land use policies. Only implementation or interpretation policies differing from those already contained in the plan should be included as part of the actual amendment.

DETAILS OF THE AMENDMENT

The Official Plan is amended as follows:

Item (1): The area indicated on the attached Schedule "A" of the Official Plan is hereby redesignated from "Residential" to "Commercial".

Item (2): Section 3 (Commercial Policies) of the Official Plan for the Town of Smithtown is amended by adding the following new subsection after subsection 3.7:

"3.8 Prior to the approval of any application for commercial development of the area bounded by Jane, Green, Molly and Brown Streets, council shall be satisfied that:

(i) the proposed commercial use is harmonious with the visual character and scale of the existing commercial development south of Green Street;

(ii) all service access will be from Jane Street or Molly Street;

(iii) ingress and egress of parking facilities associated with the proposed commercial use will not cause danger to:

(a) vehicular movement on Main Street;

(b) general pedestrian movement in the area; or

(c) the surrounding residential area."

IMPLEMENTATION AND INTERPRETATION

The implementation and interpretation of this Amendment shall be in accordance with the respective policies of the Smithtown Official Plan.

The Map(s)

Experience indicates that most amendments require a map, or maps. These are usually called "schedules". They offer a visual description of the proposed change. Once the amendment is approved, the change described on the map becomes an integral part of the official plan.

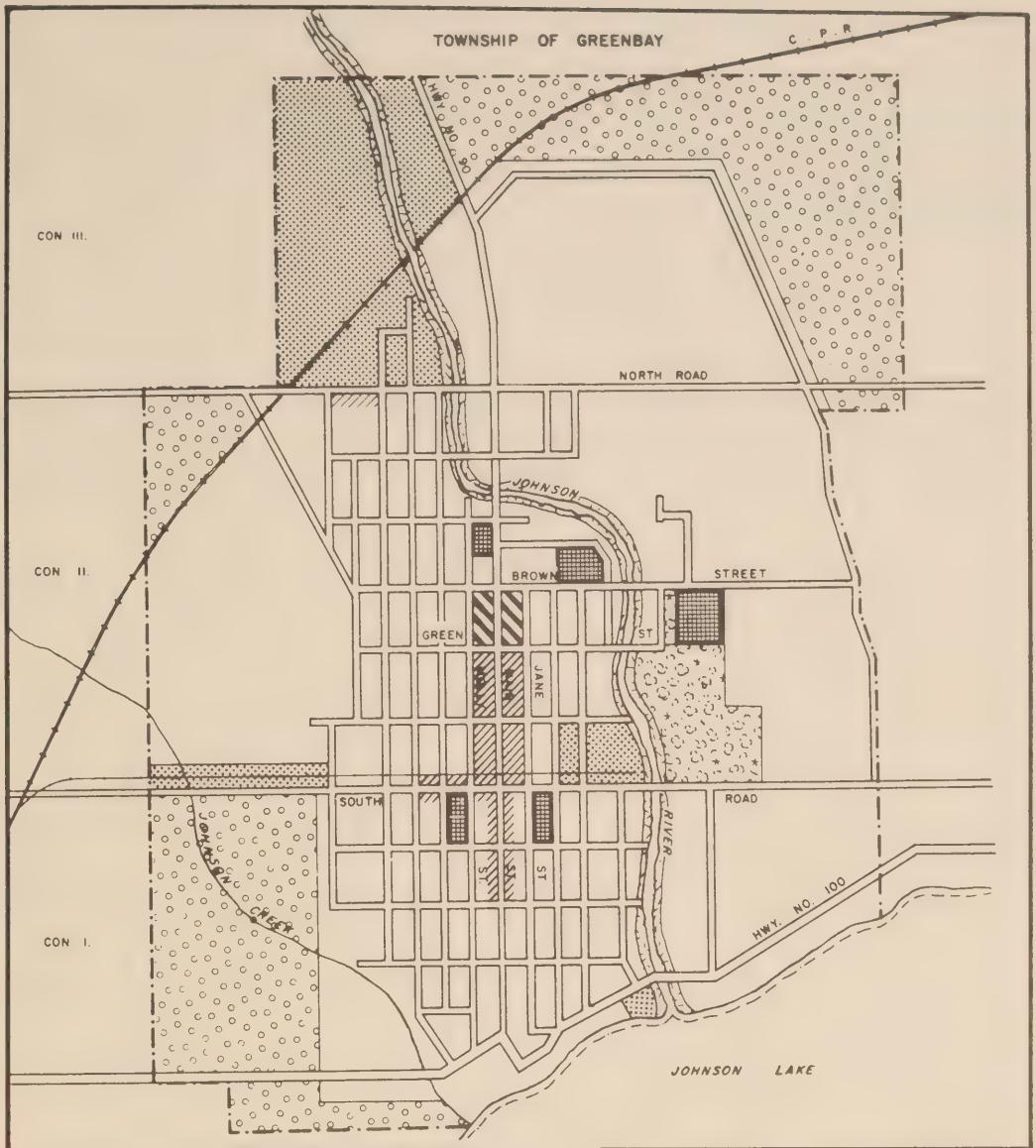
An official plan often contains several maps. These could illustrate the location of future land use, transportation corridors, sewers and water supply, or staging of development. *Only those maps intended to be changed should be included in the actual amendment.*

The map used for an amendment should be an exact copy, usually a print, of the one used in the official plan. This practice is advantageous because it relates the amendment back to the official plan. The map used should also reflect any changes made in previously approved amendments to the plan.

It is helpful to:

(1) outline in colour, or cross-hatch, the lands affected by an amendment on a copy of the pertinent map; and

(2) state the proposed redesignations directly on the map copy.



AMENDMENT No. 1 TO THE OFFICIAL PLAN FOR THE TOWN OF SMITHTOWN

SCHEDULE "A"
LAND USE PLAN

NOTE-THIS SCHEDULE FORMS PART OF AMENDMENT No. 1 TO THE OFFICIAL PLAN FOR THE TOWN OF SMITHTOWN AND MUST BE READ IN CONJUNCTION WITH THE WRITTEN TEXT

L E G E N D

- HAZARD
- RESIDENTIAL
- COMMERCIAL
- INDUSTRIAL
- RURAL
- OPEN SPACE
- INSTITUTIONAL
- PLAN BOUNDARY
- AREA AFFECTED BY THIS AMENDMENT– PROPOSED CHANGE FROM RESIDENTIAL TO COMMERCIAL

180 0 180 360
SCALE IN METRES

DATE : JUNE 84

Part C — The Appendices

The Summary Page

For easy reference it is useful to summarize the appendices on a separate page inserted immediately before the appendices.

PART C — THE APPENDICES

The following appendices do not constitute part of Amendment No. 1, but are included as information supporting the amendment.

Appendix I History of the Community

Appendix II Topography and Soils

Appendix III Population Growth

Appendix IV Land Use Survey and Analysis

Appendix V Public Meeting

The Appendices

Appendices do not form part of the actual amendment. Nevertheless, they contain reference material or detailed information relevant to it. They are normally placed at the back of the document.

Appendices sometimes consist of:

(1) a chart or table (e.g. land use survey, population analysis);

(2) additional maps (e.g. soil capability, existing land use);

(3) minutes and resolutions of council meetings; or

(4) details of public meetings.

APPENDIX I: BACKGROUND TO THE AMENDMENT

This could explain the reasons for council's decision to prepare and adopt the official plan amendment.

APPENDIX II: TOPOGRAPHY AND SOILS

Where pertinent, this might explain how the existing soil and/or topography could affect development proposed by the amendment.

APPENDIX III: POPULATION GROWTH

This appendix may indicate trends over a period of time as these relate to the change proposed by the amendment.

APPENDIX IV: LAND USE SURVEY AND ANALYSIS

1. Existing land uses on the site and in the vicinity of the proposed official plan amendment should be discussed.

2. Planning considerations may discuss factors regarded in assessing the suitability of the proposed area for the change in use (e.g. traffic, parking, land use compatibility).

APPENDIX V: PUBLIC MEETING(S)

This should summarize the discussion at any public meeting, including the public meeting of council required by section 17(2) of the Act.

NOTE: This section only refers to the usual type of information likely to be included in Appendices.

5 ADOPTION, SUBMISSION AND LODGING OF OFFICIAL PLANS AND AMENDMENTS

This portion of the guideline is divided into two sections, one for single official plans and the other for joint official plans. Single official plans may be prepared by any municipality in Ontario. A joint official plan may be prepared for all or part of a planning area in northern Ontario.

The term "official plan" or "plan" as used in the text and samples in this guideline means an official plan or an amendment. "Minister" refers to the Minister of Municipal Affairs and Housing *or his delegate,* where appropriate.

Inquiries regarding post-adoption procedures for local official plan documents in areas with delegated approval authority should be directed to that authority.

Single Official Plans

Adoption

When the requirements of public involvement and agency consultation have been fulfilled, council may, by by-law, adopt the plan and submit it to the minister for approval. Before submitting the plan, the clerk:

- places a certified copy of the adopting by-law in front of the document (Sample 3), and
- gives written notice of adoption of the plan within fifteen days to:
  - — the minister;
  - — each person who filed with the clerk a written request for this notice; and
  - — each agency which submitted comments and made a written request for this notice.

Submission

The submission to the minister must contain:

- **Record,** under subsection 17(7) of the Act, 1983, consisting of:
  - — **certified copy of the by-law** adopting the plan;
  - — **statement by an employee** of the municipality certifying compliance with the requirements for public involvement. The requirements of either the Act and Ontario Regulation 402/83 or approved alternative provisions in the official plan would apply to public involvement. The statement must also certify that notice of adoption has been given in accordance with section 17(8) of the Act. This statement may be in the accompanying letter, a separate document or an appendix, but *not* within the text of the official plan (Sample 9).
  - — **the original or true copy of *all* written submissions** or written comments and accompanying material received before the adoption of the plan. This information is not intended to include a transcript of verbal submissions and comments made at public meetings. It may take the form of a summary certified by the clerk. For extensive written submissions, a certified copy of a summary is acceptable. Where no written submissions have been made, a statement confirming this should be included as this part of the record.

— **such other information or material as the minister may require.** This always includes the **original and copies of the official plan or amendment.** To ensure sufficient copies of the plan to allow the minister to consult interested public authorities, the original, *two (2) duplicate original* and forty (40) working copies of the official plan should be submitted. (Duplicate originals are usually retained by the ministry.)

For official plan amendments, the original, *two (2) duplicate original* and twenty (20) working copies should be sufficient. However, for major amendments, additional copies may be required. In this case municipal staff should consult with the staff of the appropriate Plans Administration Branch or the delegated authority regarding the number of copies required.

The original and duplicate original for official plan documents should contain original signatures in a certified copy of the by-law adopting the plan. The working copies need not contain a copy of the by-law. Nevertheless, they must be true copies of the original. They should be clearly marked "WORKING COPY FOR CANVASSING PURPOSES ONLY".

Depending on the proposed amendment, the minister may also require pertinent background studies which have been done for the proposal or existing land use maps where these are not provided and are considered necessary for consideration of the amendment.

Lodging

Upon approval of the plan by the minister, the Act requires that a certified copy be lodged in his office and the office of the clerk of each municipality specified by the minister. There is no longer a requirement that the plan be lodged in the Land Registry Office.

Lodging with the Minister

The Act requires two certified copies of the plan to be lodged in the office of the minister upon approval of the document (section 20(1) of the Act). In areas with delegated approval authority, the authority lodges a certified copy of the plan with the minister and retains another certified copy.

Lodging in the Municipality

The act also requires one certified copy of the plan to be lodged in the office of the clerk of each municipality specified by the minister.

Certified Copies

The certified copies of the plan must include any modifications made by the minister. The clerk, by certificate in the front of the documents, should certify each copy by stating that it is a true copy of the official plan as approved by the minister. (Sample 8). Copies of the plan must be available for public inspection during office hours.

Repeal and Concurrent Adoption

To discontinue an approved official plan, council revokes the by-law(s) adopting that plan and any amendments. The public involvement requirements of the Planning Act or alternative public involvement provisions in the official plan apply to the repeal of an official plan.

When a plan is proposed for repeal at the same time a new plan is adopted, this is referred to as a repeal and concurrent adoption. The public involvement procedures of the Act and regulations apply to both the repeal and the concurrent adoption and can be combined in one notice and public meeting. The plan adopted and the by-law proposing the repeal, where it is separate from the by-law adopting the new official plan, are submitted to the minister with the record described earlier. The adopting by-law in this procedure (Sample 4) is slightly different from a standard adopting by-law (Sample 3).

Joint Official Plans

This section deals with the process for adoption, submission, lodging and repeal of official plans when a planning board prepares a plan for a planning area in northern Ontario.

The term "joint official plan" as used in this guideline means an official plan for a planning area in a territorial district (northern Ontario) not a plan for former joint planning areas in southern Ontario. Accordingly, this section does not deal with the adoption process for joint plans which are continued by the minister under section 71(3) of the Act. The minister allocates such plans and no requirement for adoption is placed upon the municipality or municipalities. Amendments to these plans are adopted by the council to which the plan (or portions of the plan) applies and the adoption procedures are the same as those in section 5.1 of this guideline entitled Single Official Plans.

Northern Ontario municipalities (within or outside a planning area) who wish to *prepare* their own plans should also use section 5.1 of this guideline (SINGLE OFFICIAL PLANS) for their official plan procedures.

Adoption

A council of a municipality within a planning area may adopt a plan recommended by the planning board. This plan may be a plan for the entire planning area or for the municipality only.

A plan recommended by the planning board should include a certificate page confirming this recommendation when council sends the adopted plan to the minister (Sample 1). When the plan is adopted by council it must also include a certified copy of the adopting by-law as required by the Act (Sample 5).

Plan for the Planning Area

A plan for the entire planning area, prepared by a planning board and approved by a majority of its members, must be submitted to the council of each municipality to which the plan applies (section 18(2)). Each council then holds the public meeting and consults agencies it considers are affected as required by sections 17(2) and 17(5) of the Act. Each council may then adopt the plan by by-law. The council is responsible for ensuring that the record required under section 17(7) of the Act is sent to the minister. That may be done by the clerk of the municipality or by the secretary-treasurer of the planning board.

Within 15 days after the plan is adopted, the clerk must give written notice of the adoption. This notice is sent to the minister, each person who files with the clerk a written request for this notice and each agency which submitted comments and made a written request for this notice. Subsequently, the clerk sends a certified copy of the adopting by-law to the secretary-treasurer of the planning board (section 18(3)).

When the secretary-treasurer has received copies of the adopting by-laws from a majority of the councils to which the plan was submitted, he forwards the plan to the minister for approval together with copies of the adopting by-laws (section 18(4)).

Plan for a Municipality Within a Planning Area

A plan prepared by a planning board for one municipality must be approved by a majority of the members of the board before it can be submitted to council. The adoption process is similar to that for a plan for the entire planning area; however, the secretary-treasurer receives a certified copy of the adopting by-law only from the council to which the plan was submitted. The council ensures that the record required under section 17(7) of the Act is forwarded to the minister.

Section 21(1) of the Act allows the council of a municipality within a planning area to initiate an amendment to or a repeal of any official plan that applies to the municipality. Council must follow the adoption and submission procedures described in section 5.1 entitled Single Official Plans. The planning board is not required to be given a copy of the adopting by-law, nor does it submit the plan to the minister. Council should, however, keep the planning board advised of such submissions.

Plan for Unorganized Areas

Where a planning area either contains or consists entirely of an area without municipal organization, the planning board is responsible for adopting (by by-law or resolution) the plan for the unorganized part of the planning area (Sample 7). Following adoption by the board, the secretary-treasurer assumes the responsibilities of a municipal clerk. The secretary-treasurer is responsible for placing a certified copy of the by-law /resolution adopting the plan, in front of the document and preparing the record, including all other material to be submitted to the minister. As well, the secretary-treasurer must give written notice of adoption of the plan within 15 days as required by section 17(8) of the Act.

Submission

The submission to the minister must contain:

- **Record,** under section 17(7) of the Act consisting of:
  - **certified copies of the by-laws** adopting the plan from the majority of councils to which the plan was submitted, and a certified copy of the by-law or resolution of the planning board adopting the plan for the unorganized area;
  - **statement by an employee** of each municipality certifying compliance with the requirements for public involvement. The requirements of either the Act and the regulation or approved alternative provisions in the official plan would apply to public involvement. The statement should also certify that notice of adoption has been given in accordance with section 17(8) of the Act. This statement (Sample 9) may be in the accompanying letter, a separate document or an appendix, but *not* within the text of the official plan.
  - **the original or true copy of all written submissions** or written comments and accompanying material received before the adoption of the plan. This information is not intended to include a transcript of verbal submissions and comments made at public meetings. It may take the form of a summary certified by the clerk. For extensive written submissions, a certified copy of a summary is acceptable. Where no written submissions have been made, a statement confirming this should be included as part of the record.
  - **Such other material as the minister may require.** This always includes the **original and copies of the official plan or amendment.** In order that there are sufficient copies of the plan to allow the ministry to consult interested public authorities, the original, *two (2) duplicate originals* and forty (40) working copies of the official plan should be submitted. (Duplicate originals are usually retained by the ministry.)

    For official plan amendments, the original, *two (2) duplicate originals* and twenty (20) working copies should be sufficient. However, for major amendments, additional copies may be required. In this case municipal staff should consult with the staff of the Plans Administration Branch, North and East, regarding the number of copies required.

    The original and duplicate originals for official plan documents should contain original signatures in a certified copy of the by-law adopting the plan and the certificate page. The working copies need not contain a copy of the by-law or the certificate page. Nevertheless, they must be true copies of the original. They should be clearly marked "WORKING COPY FOR CANVASSING PURPOSES ONLY".

The minister may also require background studies on the proposal done by or for planning board or existing land use maps where these are not provided and are considered necessary for consideration of the amendment.

Section 18(3) of the Act requires that when a plan is adopted, the council of each municipality included in the planning area is responsible for compiling the record just described and cause it to be forwarded to the minister under section 17(7). Councils and the planning board may consider an arrangement whereby this information is sent from the clerks to the secretary-treeasurer so that a complete submission can be sent to the minister by the secretary-treasurer. If this is done by each municipality included in the plan, the submission by the secretary-treasurer would consist of all of the adopting by-laws and records of the municipalities in the planning area along with the plan. However, the clerk of each municipality must send the notice of adoption of the official plan required under section 17(8) of the Act to the minister, every person who requested this notice and each agency that commented on the proposal and requested this notice.

Lodging

Upon approval of the plan by the minister, the Act requires that certified copies be lodged in his office and the office of the clerk of each municipality specified by the minister. There is no longer a requirement that the approved official plan be lodged in the Land Registry Office.

Lodging with the Minister

The Act requires two certified copies of the plan to be lodged in the office of the minister upon approval of the document (section 20(1) of the Act).

Lodging in the Municipality

The Act requires one certified copy of the plan to be lodged in the office of the clerk of each municipality specified by the minister.

The Act stipulates that the lodging be carried out by the clerk of the municipality where an official plan affects all or part of one municipality and an unorganized area.

In a planning area, the clerk of the only municipality or the municipality with the largest population will be asked to prepare sufficient certified copies of the official plan as approved by the minister to be lodged in the office of the clerk of each municipality specified by the minister when notice of his decision is given. The official plan document must include any modifications made by the minister and they must be inserted in the appropriate sections of the plan. The clerk, by a certificate affixed in the front of the documents, should certify each copy by stating that it is a true copy of the official plan as approved by the minister (Sample 8). The number of certified copies required for lodging in municipal offices will depend on the number of municipalities involved.

Repeal and Concurrent Adoption

To discontinue an approved official plan, council (or planning board for unorganized areas), revokes the by-law(s) or resolution(s) adopting that plan and any amendments. The repeal process is similar to the adoption process in section 17 of the Act except that council may initiate a repeal of any official plan applying to that municipality. The public involvement requirements of the Planning Act or alternative public involvement provisions in the official plan apply to the repeal of an official plan.

When the repeal of a plan is done at the same time as the adoption of a new plan, this procedure is referred to as a repeal and concurrent adoption. The adopted plan and the by-law proposing the repeal is submitted to the minister for approval after the required public involvement procedures have been fulfilled. The certificate page and adopting by-law for documents involved in this procedure (Samples 2 and 6) are slightly different from a standard adoption (Samples 1 and 5).

SAMPLE 1

CERTIFICATE PAGE FOR OFFICIAL PLAN*

(for a planning area)

OFFICIAL PLAN*

FOR THE

..... PLANNING AREA

The Official Plan* for the ..... planning area consisting of the attached maps and explanatory text, was prepared by the ..... Planning Board and was recommended to the Council of the ..... under section 18(2) of the Planning Act, 1983, on the ..... day of ....., 19.....

CORPORATE SEAL OF PLANNING BOARD

_____ Chairman

_____ Secretary-Treasurer

(Original Signatures)

This Official Plan* was adopted by Council(s) of the Corporation of ..... by By-law number(s) ..... under section 18(3) of the Planning Act, 1983 on the ..... day of ....., 19.....

CORPORATE SEAL(S) OF MUNICIPALITY OR MUNICIPALITIES

_____ Mayor or Reeve

_____ Clerk

(Original Signatures)

*Substitute "Official Plan Amendment" and number where appropriate.

SAMPLE 2

CERTIFICATE PAGE FOR OFFICIAL PLAN*

(repeal and concurrent adoption of a plan for a planning area)

OFFICIAL PLAN*

FOR THE

..... PLANNING AREA

The repeal of the Official Plan* for the ..... Planning Area (which Official Plan was approved by the Minister of Municipal Affairs and Housing on ....., and subsequently amended), was recommended by the ..... Planning Board to the Council of the Corporation of ..... on the ..... day of ....., 19.....

The Official Plan* for the ..... Planning Area consisting of the attached maps and explanatory text was prepared by the ..... Planning Board and recommended to the Council of the Corporation of ..... under section 18(2) of the Planning Act, 1983, on the ..... day of ....., 19.....

_____ _____

Chairman Secretary-Treasurer

(Original Signatures)

CORPORATE SEAL OF PLANNING BOARD

The Official Plan* for the ..... Planning Area having been recommended for repeal by the ..... Planning Board, was repealed by By-law number(s) ..... under section 17 of the Planning Act, 1983, on the ..... day of ....., 19.....

The Official Plan* for the ..... Planning Area, consisting of the attached maps and explanatory text as recommended by the ..... Planning Board, was adopted by the Corporation of ..... by By-law No. ..... under section 18(3) of the Planning Act, 1983, on the ..... day of ....., 19.....

Signed _____ _____

Mayor or Reeve Clerk

(Original Signatures)

CORPORATE SEAL OF MUNICIPALITY

*Substitute "Official Plan Amendment" and number where appropriate.

SAMPLE 3

ADOPTION BY-LAW FOR OFFICIAL PLAN*

(for a municipality outside a planning area)

BY-LAW NO. .....

The Council of the Corporation of ....., under section 17(6) of the Planning Act, 1983, hereby enacts as follows:

1. The Official Plan* for the ..... consisting of the attached maps and explanatory text, is hereby adopted.

2. The Clerk is hereby authorized and directed to make application to the Minister of Municipal Affairs and Housing for approval of the Official Plan* for the .....

3. This By-law shall come into force and take effect on the day of the final passing thereof.

Enacted and passed this ..... day of ....., 19.....

Signed _____ (Original Signatures)

Reeve, Mayor, Warden or Chairman

CORPORATE SEAL OF MUNICIPALITY

Signed _____ (Original Signature)

Clerk

Certified that the above is a true copy of By-law No. ..... as enacted and passed by the Council of the ..... on ....., 19.....

Signed _____

Clerk

*Substitute "Official Plan Amendment" and number where appropriate.

SAMPLE 4

ADOPTION BY-LAW FOR OFFICIAL PLAN*

(repeal and concurrent adoption of a plan for a municipality outside a planning area)

BY-LAW NO. .....

The Council of the Corporation of ..... under section 17 of the Planning Act, 1983, hereby enacts as follows:

1. The Official Plan* and all amendments thereto for the ..... (approved by the Minister of Municipal Affairs and Housing on ..... and subsequently amended), is hereby repealed.

2. By-law number(s) ..... which adopted the Official Plan* for the ..... is (are) hereby repealed.

3. The Official Plan* for the ..... consisting of the attached maps and explanatory text is hereby adopted.

4. The Clerk is hereby authorized and directed to make application to the Minister of Municipal Affairs and Housing for the approval of this repeal and the approval of the attached Official Plan* for the .....

5. This By-law shall come into force and take effect on the day of final passing thereof.

Signed _____ (Original Signatures)
Head of Council

CORPORATE SEAL OF MUNICIPALITY

Signed _____ (Original Signature)
Clerk

Certified that the above is a true copy of By-law No. ..... as enacted and passed by the Council of the ..... on the ..... day of ....., 19.....

Signed _____ (Original Signature)
Clerk

*Substitute "Official Plan Amendment" and number where appropriate.

Item 2 applies only if the municipality adopted the plan which is being repealed. In other cases, Item 2 is not necessary.

SAMPLE 5

ADOPTION BY-LAW FOR OFFICIAL PLAN*

(for a planning area)

BY-LAW NO. .....

The Council of the Corporation of ..... under section 18(3) of the Planning Act, 1983, hereby enacts as follows:

1. The Official Plan* for the ..... Planning Area, consisting of the attached maps and explanatory text, is hereby adopted.

2. This By-law shall come into force and take effect on the day of the final passing there.

Enacted and passed this ..... day of ....., 19.....

Signed (Original Signature)
Mayor, Reeve

Signed (Original Signature)
Clerk

Certified that the above is a true copy of By-law No. ..... as enacted and passed by Council of the Corporation of ..... on the ..... day of ....., 19.....

Signed (Original Signature)
Clerk of Municipality

CORPORATE SEAL OF MUNICIPALITY

*Substitute "Official Plan Amendment" and number where appropriate.

SAMPLE 6

ADOPTION BY-LAW FOR OFFICIAL PLAN*

(repeal and concurrent adoption of a plan for a planning area)

BY-LAW NO. .....

The Council of the Corporation of ..... under section 18 of the Planning Act, 1983, hereby enacts as follows:

1. The Official Plan* and all amendments thereto for the ..... Planning Area (approved by the Minister of Municipal Affairs and Housing on ..... and subsequently amended), having been recommended for repeal by the ..... Planning Board are hereby repealed.

2. By-law number(s) ..... which adopted the Official Plan* for the ..... Planning Area is(are) hereby repealed.

3. The Official Plan* for the ..... Planning Area consisting of the attached maps and explanatory text which has been recommended by the ..... Planning Board, is hereby adopted.

4. This By-law shall come into force and take effect on the day of final passing thereof.

Signed _____ (Original Signature)
Head of Council

CORPORATE SEAL OF MUNICIPALITY

Signed _____ (Original Signature)
Clerk

Certified that the above is a true copy of By-law No. ..... as enacted and passed by the Council of the ..... on the ..... day of ....., 19.....

Signed _____ (Original Signature)
Clerk

*Substitute "Official Plan Amendment" and number where appropriate.

Item 2 applies only if the municipality adopted the plan which is being repealed. In other cases, Item 2 is not necessary.

SAMPLE 7

ADOPTION BY-LAW FOR OFFICIAL PLAN*

(used by a planning board to adopt an official plan for an unorganized area)

BY-LAW NO. .....

The ..... Planning Board, under section 18(3) of the Planning Act, 1983, hereby enacts as follows:

1. The Official Plan* for the ..... Planning Area consisting of the attached maps and explanatory text, is hereby adopted.

2. This By-law shall come into force and take effect on the day of the final passing thereof.

Enacted and passed this ..... day of ....., 19.....

Signed _____ (Original Signature)
Chairman

CORPORATE SEAL OF PLANNING BOARD

Signed _____ (Original Signature)
Secretary-Treasurer

Certified that the above is a true copy of By-law No. ..... as enacted and passed by the ..... Planning Board on ....., 19.....

Signed _____ (Original Signature)
Secretary-Treasurer

*Substitute "Official Plan Amendment" and number where appropriate.

SAMPLE 8

CERTIFICATION THAT DOCUMENT IS A TRUE COPY

I hereby certify that the enclosed document is a true copy of the Official Plan* for the ..... as approved by the Minister of Municipal Affairs and Housing on the ..... day of ....., 19.....

Signed _____ (Original Signature)

Clerk

CORPORATE SEAL OF MUNICIPALITY

*Substitute "Official Plan Amendment" and number where appropriate.

SAMPLE 9

CERTIFICATION OF COMPLIANCE WITH PUBLIC INVOLVEMENT AND NOTICE REQUIREMENTS

I .....(name)....., ...(position)....., hereby certify that the requirements for the giving of notice, and the holding of at least one public meeting as set out in subsection 17(2)* of the Planning Act, 1983 and the giving of notice as set out in subsection 17(8) of the Planning Act, 1983 have been complied with.

*or section 17(4) if the official plan contains provisions re public notice.

For further information, contact any of the following offices of the Ministry of Municipal Affairs and Housing:

Community Planning Advisory Branch

Central Region
47 Sheppard Avenue East
2nd Floor
Willowdale, Ontario
M2N 2Z8
Telephone: (416) 224-7635
ZENITH 52650

South East Region
244 Rideau Street
3rd Floor
Ottawa, Ontario
K1N 5Y3
Telephone: (613) 566-3801
ZENITH 52650

North East Region
1191 Lansing Avenue
Sudbury, Ontario
P3A 4C4
Telephone: (705) 560-0120
TOLL FREE 1-800-461-1193

South West Region
495 Richmond Street
7th Floor
London, Ontario
N7A 5A9
Telephone: (519) 673-1611
TOLL FREE 1-800-265-4736

North West Region
435 James Street South
Thunder Bay, Ontario
P7C 5G6
Telephone: (807) 475-1651
ZENITH 52650

Plans Administration Branch — North and East

777 Bay Street
14th Floor
Toronto, Ontario
M5G 2E5
Telphone: (416) 585-6014

Plans Administration Branch — Central and Southwest

777 Bay Street
14th Floor
Toronto, Ontario
M5G 2E5
Telephone: (416) 585-6014

Local Planning Policy Branch

777 Bay Street
13th Floor
Toronto, Ontario
M5G 2E5
Telephone: (416) 585-6225

Additional copies of this publication and the following guidelines on the Planning Act are available directly from: Ontario Government Bookstore, 880 Bay Street, Toronto, or write to: Ministry of Government Services, Publications Service, 880 Bay Street, Toronto, M7A 1N8, (416) 965-6015.

1. Planning Advisory Committees (January 1983)
2. Local Planning in Northern Ontario (January 1983)
3. Delegation of Minister's Authority (January 1983)
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9. Official Plans and the Use of Site Plan Control (August 1984)
10. Official Plan Documents: Preparation, Adoption, Submission and Lodging (August 1984)
11. Committees of Adjustment, Minor Variances and Non-Conforming Uses (August 1984)

Ontario
Ministry of
Municipal Affairs
and Housing
Claude Bennett, Minister

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M5G 2E5

Ministry of
Municipal Affairs
and Housing

Ontario

THE PLANNING ACT

GUIDELINE 11

Committees of Adjustment, Minor Variances and Non-Conforming Uses

July 1984

This series of guidelines explains:

- **those provisions of the legislation which are either new or significantly changed from the former Planning Act, and**

- **planning issues of interest to municipalities and the public.**

The guidelines should assist in understanding and applying the new legislative provisions, but are advisory only. While some guidelines include proposed methods of applying these provisions, they do not describe the *only* ways of using them.

The guidelines should *not* therefore be interpreted as statements of government policy.

TABLE OF CONTENTS

1 INTRODUCTION

This guideline involves the revision and combination of two previously published guidelines "Establishing a Committee of Adjustment" (April 1980) and "Minor Variances and Non-Conforming Uses" (September 1980). This revision reflects the slightly modified requirements of the Planning Act, 1983.

Sections 2 and 3 of this guideline outlines how council can establish a committee of adjustment to deal with minor variances and non-conforming uses. The remaining sections discuss the legal, operational and planning framework for granting minor variances and relief to non-conforming uses.

The opinions offered are for general information only. Councils, committees of adjustment and other interested persons should consult their legal and other advisors on specific matters.

2 COMMITTEE OF ADJUSTMENT

The Planning Act, 1983 allows a municipal council to appoint a committee of adjustment to consider minor variances from zoning by-laws and certain other by-laws, and permit changes to legal non-conforming uses. The term "committee of adjustment" comes from the committee's role of adjusting by-law requirements in special circumstances.

The Advantage of Having a Committee of Adjustment

Establishing a committee of adjustment is not mandatory. However, a committee can help council administer zoning by-laws if the anticipated volume of applications for minor variances and relief from non-conforming uses is high.

It may be quicker and less expensive for a committee of adjustment to process minor variance applications than for council to amend the by-law for minor changes, including the expansion of legal non-conforming uses under section 34(10). Council also may not have the time to fully evaluate applications for minor changes to the zoning by-law. It may be preferable to have a committee of adjustment review the applications in detail and make decisions on them.

Establishing a Committee of Adjustment

Section 43 of the Planning Act, 1983 contains the statutory provisions for constituting and appointing a committee of adjustment. The pertinent provisions contained in section 43 are summarized below:

Zoning by-law requirement — Council must have passed a zoning by-law before it can establish a committee of adjustment. The committee can be established before the by-law comes into force. However, the committee should not grant any approvals until after the by-law is in force because if there is an appeal to the Ontario Municipal Board the subsequently approved by-law may vary from that adopted by council.

Constituting by-law — Council must pass a by-law to establish a committee of adjustment (see Appendix 1 — sample by-law to constitute and appoint a committee of adjustment).

The former Planning Act permitted committees to authorize minor variances to any by-law implementing an official plan. However, the Planning Act, 1983 allows committees to authorize minor variances only to zoning by-laws (this includes holding, bonus and temporary use by-laws) and interim control by-laws, unless council extends the power of the committee to other by-laws. If council wishes to extend the committee's powers to grant minor variances to other named by-laws, it should pass a separate by-law under section 44(3).

Membership — At least three persons must be appointed to the committee (section 43(1)). Anyone, including members of council, employees of the municipality or a local board is eligible to be a member of the committee.

Copy of by-law to minister — Once the constituting and appointing by-law is passed, the municipal clerk must, within 30 days, send a certified copy by registered mail to the Minister of Municipal Affairs and Housing (section 43(2)). Only the by-law actually establishing a committee must be sent to the minister. Subsequent by-laws appointing new members should not be sent to the ministry.

Term of office — Members of the committee who are not members of council are appointed for the three year term of the council that appointed them; committee members who are members of council are appointed annually (section 43(3)).

Members hold office until their successors are appointed and are eligible for reappointment. Where a member does not complete his term, the council appoints another member for the unexpired portion of the term (section 43(4)).

Powers of a Committee of Adjustment

Under sections 44(1) and (2) of the Planning Act, 1983, a committee of adjustment is automatically assigned responsibility for proccessing applications relating to the following:

- minor variances to certain types of by-laws;
- non-conforming uses; and
- permitting specific uses where a by-law defines them in general terms.

Minor variances — A committee may grant a minor variance to any zoning by-laws passed under section 34 of the Planning Act or a predecessor of this section. These include holding by-laws, bonus by-laws and temporary use by-laws. Minor variances can also be granted to interim control by-laws passed under section 37. A committee can vary by-law provisions relating to land, buildings or structures or the use of any of these, providing it is of the opinion that this is desirable for the appropriate development or use and the general intent and purpose of the by-law and the official plan, if any, are maintained.

Additional minor variance powers — In addition to the preceding assigned powers, a committee of adjustment can be authorized, by council by-law, to grant minor variances to any specified by-laws that implement an official plan.

Non-conforming uses — A committee may approve one or more applications for enlargement or extension to an existing legal non-conforming building or structure providing the use continued from the date the by-law was passed until the date of the application to the committee. The committee may also consider one or more successive expansions to a legal non-conforming use which did not continue from the passing of the by-law. However, the use must have been previously permitted by the committee and continued to the date of application. The Act does not give the committee the authority to enlarge or extend a building or structure beyond the limits of the land owned and used on the day the by-law was passed or to permit a new building.

A committee may also approve one or more applications for a use that is either similar to the purpose of the existing legal non-conforming use or that is more compatible with the uses permitted in the by-law. If the by-law permits the proposed use the approval of the committee is not necessary.

By-law interpretation — Where the permitted uses in the by-law are defined in general terms, a committee may permit a use not specifically named in the by-law if, in the opinion of the committee, this use conforms to the by-law.

3 MINOR VARIANCES AND NON-CONFORMING USES

Several items apply equally to both minor variances and non-conforming uses. These include the fees for processing applications, rules of procedure and the importance of municipal and provincial planning documents.

Fees

Section 68 of the Planning Act, 1983, gives council the option of prescribing, by by-law, a tariff of fees for processing planning applications including applications for minor variances and non-conforming uses. This fee schedule should be designed to meet the anticipated processing cost to the committee of adjustment. Where the fees charged do not cover the expenses for processing applications made to the committee, the remainder of the costs must be assumed by the municipality. Under the Planning Act, the committee of adjustment may, in processing a planning application, reduce the amount of, or waive the requirement for, the payment of a fee. For more information on the subject of fees, see "Guideline 7: Planning Application Fees".

Rules of Procedure

Procedures for committees of adjustment are set out in the Act and rules of procedure, Regulation 447/83. For more information on these procedures, see "Guideline 5: Working with the New Regulations". As well, section 44 of the Act should be reviewed.

Getting the Committee of Adjustment Started

The committee of adjustment makes decisions within the context of the Planning Act, regulations and provincial and local land use planning policies. It is important that the members are provided with all relevant planning documents and are aware of their responsibilities and procedures. The following assistance is appropriate:

Provision of planning documents — The committee should be given copies of all planning documents in effect in the municipality. These include all zoning by-laws, the official plan, community improvement plans and amendments, provincial policy statements issued under section 3 of the Planning Act, and any other relevant documents including provincial guidelines.

Orientation program — Council also should ensure that the committee receives an orientation program. Arrangements can be made through the Community Planning Advisory Branch of the Ministry of Municipal Affairs and Housing to have a staff member meet with the members of the committee and explain their new responsibilities. On request, that branch can provide the following materials:

- The Planning Act 1983;

- Ontario Regulation 447/83 — Rules of Procedure; and
- Guideline 5 — Working with the New Regulations;

The Ongoing Involvement of Council

Since committees of adjustment must be aware of policy changes when making decisions, they must be kept informed of changes to the official plan, community improvement plan and zoning by-laws and any provincial policy statements.

If council feels that a decision is not compatible with municipal policies, it may appeal the decision to the Ontario Municipal Board under section 44(12) of the Act.

Finally, council has an ongoing role in appointing or re-appointing members of the committee as their terms expire.

4 THE LEGAL FRAMEWORK

Zoning

Zoning — What is it?

Community planning is basically a two function process:

- policy making, and
- implementation

The policies are usually contained in official plans and implemented in zoning by-laws.

Statutory basis — the Planning Act allows municipal councils to pass zoning by-laws, which control land use and may set standards. If zoning is in effect, a development proposal must conform to the requirements of the by-law or a building permit cannot be issued.

Zoning is not mandatory in Ontario. Some rural areas have no zoning controls to regulate where development may take place. There may be no controls aside from the Ontario Building Code, which establishes construction standards. A property owner can get a building permit for any use in any location, provided he meets the standards set out in the Building Code and any other laws in effect.

The importance of zoning — a property owner must meet the requirements of the zoning by-law precisely. One function of zoning is to protect property values by defining in exact terms, through a public document, what standards a property owner must meet to develop land. If these standards are not met, the property owner can be prosecuted.

Preciseness of zoning — zoning is precise and exact. A building permit cannot be issued unless the proposal complies with the terms of the by-law *exactly*.

Minor Variances

A Minor Variance — What is it?

The following two situations illustrate what a minor variance is.

The owner of the lands shown in Figure 1 wishes to construct a duplex on his 697 square metre lot. The siting of the building shows that it cannot be located to meet the front yard requirement of the zoning by-law. As Figure 1 illustrates, there is a stream running along the rear lot line of his property. The proposed dwelling must be located a minimum of 7.5 metres from the stream because of the requirements of the zoning by-law. The topography of the lot is such that the building can only be built in the location shown.

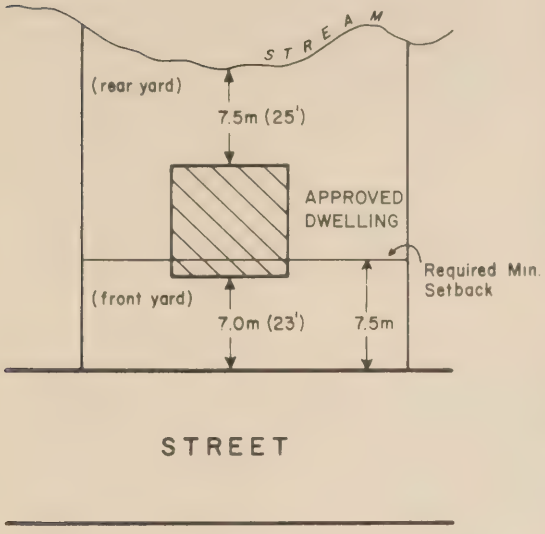


FIGURE 1

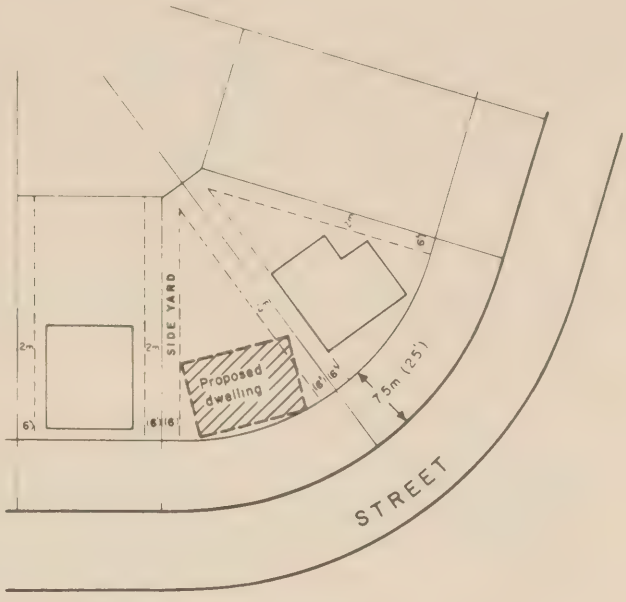


FIGURE 2

If the building complies with the rear yard setback it will not meet the front yard requirement of 7.5 metres from the street line and consequently a building permit could not be issued.

In Figure 2, because of the shape of the lot, the proposed dwelling encroaches slightly on the minimum side yard of 2 metres required in the zoning by-law. Because the dwelling does not meet the 2 metre requirement, a building permit cannot be issued.

In both these situations the property owner could apply to municipal council for a by-law amendment. The by-law amendment process, however, may, in some cases, be unnecessarily long and costly. It is for situations such as these that the minor variance process was developed.

A minor variance is really a small variation from the requirements of the by-law. The need for the variation is created by circumstances peculiar to the land, building, structures or use that prevent the owner from meeting all the requirements of the by-law. A minor variance approval is a certificate of permission, because it allows the property owner to get a building permit even though his proposal does not comply precisely with the by-law requirements.

Types of Provisions Varied

Committees can vary by-law provisions relating to the land, building, or structure or the uses of any of these. A parking space provision in the by-law may, therefore, be the subject of a minor variance application. For example, the owner of land shown in Figure 3 may wish to erect an office. According to the by-law requirements the maximum permitted floor area requires 8 off-street parking spaces. However, the owner finds that, because of the railroad track cutting off the corner of the property, only 6 spaces can be provided. The owner can apply to the committee of adjustment for a minor variance from the parking requirement of 8 spaces. The committee may grant such a variance if in its opinion the variance is appropriate, providing the basic intent of the by-law and any official plan is maintained.

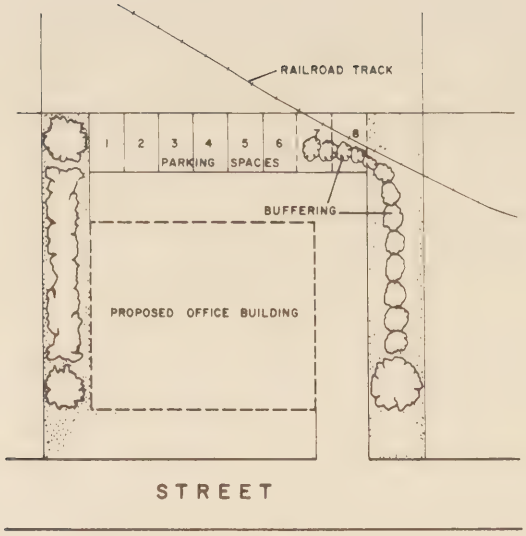


FIGURE 3

Variance to Other By-laws

Under the Planning Act, 1983, a committee of adjustment is assigned the power to grant minor variances to zoning by-laws and interim control by-laws. However, the committee can be authorized, by council by-law, to grant minor variances to any specified by-laws that implement an official plan. For example, a committee could be authorized to grant variances to a sign by-law if it clearly implements an official plan. The committee should not be authorized to deal with by-laws regarding financial matters, e.g. temporary municipal borrowing by-laws even if they are construed as implementing an official plan because the Municipal Act and other Acts permit amendment of such by-laws.

Non-conforming Use

A Non-conforming Use — What is it?

In addition to its powers to grant minor variances, a committee of adjustment also has some authority to deal with changes to non-conforming uses. A legal non-conforming use is a use that legally existed on the day the by-law came into force and continues to be used for that purpose although it is not recognized in the by-law.

For example, suppose the official plan (council's statement of long range planning policy) states that a certain neighbourhood should, in the long run, be exclusively multiple family residential. At present, the area contains a number of different uses. One of these is a 20 year old tire factory which complied with the regulations in effect when it was built. The municipality implements the official plan by zoning the entire neighbourhood RM2 (multiple family residential). The tire factory is a legal non-conforming use. It is a legal use but it is not among the uses permitted by the by-law. No new tire factory could be built in the area zoned RM2.

Statutory provisions — Because of provisions in the Planning Act, 1983, this tire factory can continue to exist despite the fact that it is not a residential use and does not comply with the by-law requirements. Section 34(9) of the Planning Act protects any land, building or structure that was used for a purpose prohibited by the by-law on the day the by-law was passed. There are, however, two important provisos.

- First, the non-conforming use must be there legally. This means that it must have complied with the building regulations in effect when the use began. The building permit must have been obtained legally.

- Second, the non-conforming use must be continuous. A non-conforming use cannot close down and reopen at will. A regular seasonal closing is allowed. If a non-conforming use closes down for an extended period of time, it loses its non-conforming status. Since it does not comply with the by-law, the municipality can take legal action against the owner if the same use resumes after an extended period.

Non-conforming Uses and the Committee of Adjustment

A non-conforming use should cease to exist in the long run and be replaced by a use that conforms to the zoning by-law and the official plan where there is one. Despite this aim, the Planning Act, 1983 gives legal non-conforming uses some concessions even though they do not comply with the municipality's long term plans. Section 44(2) of the Act gives committees of adjustment some additional powers regarding expanded or different non-conforming uses.

Discretionary approval — First, these powers are discretionary. Approvals are not ganted as of right or as a matter of course. Each application must be assessed on its own merits before the committee decides whether or not to grant permission.

Expansions of legal non-conforming uses — The owner of a tire factory wants to expand it. However, he cannot get a building permit to do so since the factory is not recognized as a permitted use in the by-law. Section 44(2)(a)(i) of the Planning Act requires the following conditions to be satisfied before a committee of adjustment considers an application or successive applications for expansion of a legal non-conforming use:

- the use must be continuous. This means a use existing from the date the by-law was passed or a similar or more compatible use (approved by the committee) which has continued until the date of the application to the committee.

- the expansion must only be on property originally owned. It has to be within the limits of the land owned (and used in connection with the use) on the day the by-law was passed. This means that the owner cannot buy and include adjacent land for the expansion.

- No new separate buildings are allowed. The owner can apply to the committee of adjustment to build an addition (enlargement or extension) only. The ultimate aim is for the non-conforming use to cease to exist and be replaced by a conforming one. A new and separate building would tend to perpetuate the use indefinitely and so it is not allowed.

Similar use — The committee can also approve one or more applications for a use similar in purpose to the non-conforming use existing on the day the by-law was passed (section 44(2)(a)(ii)). For example, perhaps the owner of the tire factory decides to sell the factory. While the owner cannot find a purchaser to continue manufacturing tires, a manufacturer of rubber would like to buy and use the factory. This is a similar but still non-conforming use and the owner must apply to the committee of adjustment for approval. Of course, if the by-law permits just factories in this area, the approval of the committee would not be required because the new use meets the by-law.

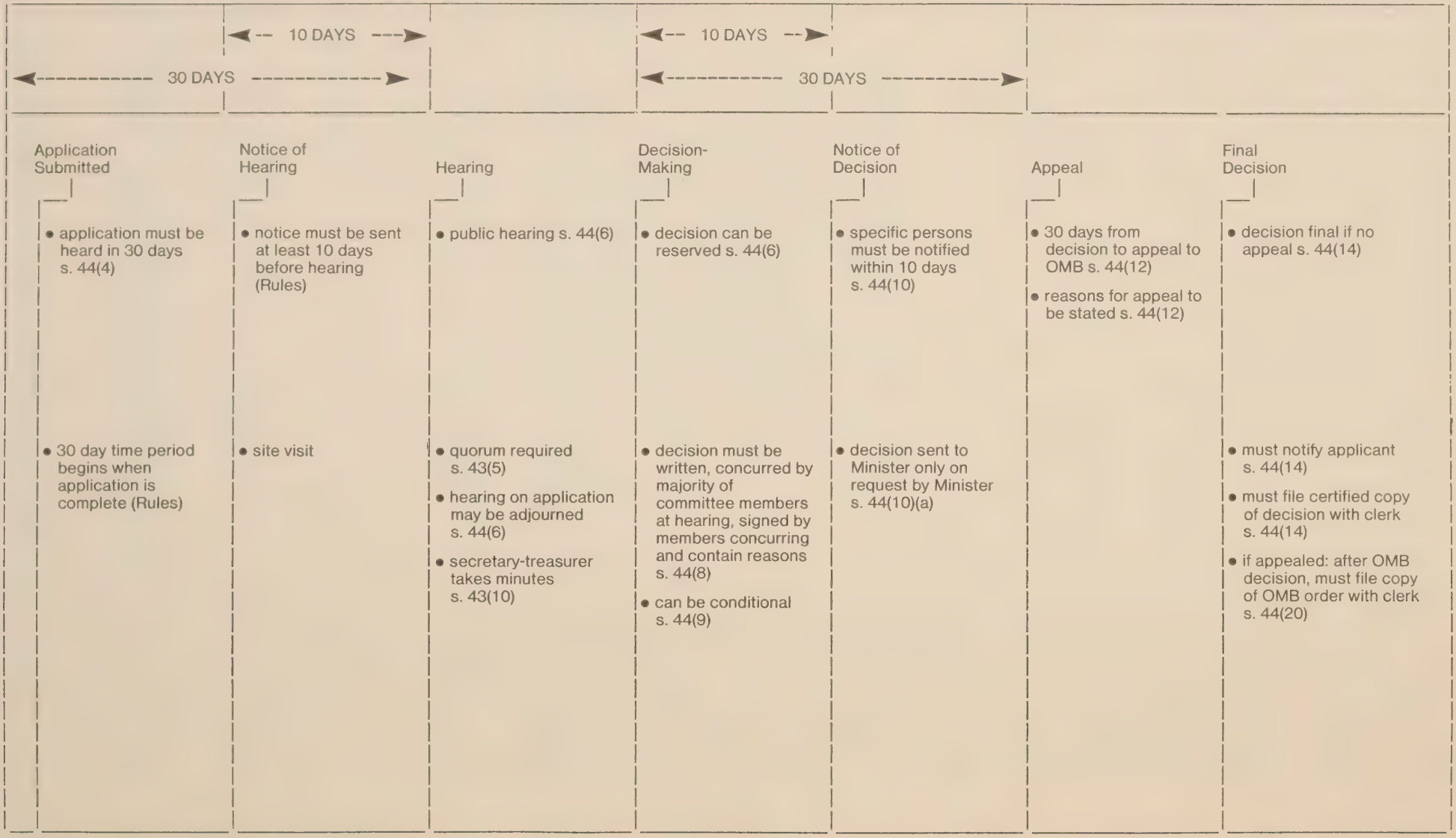
More compatible use — Sometimes the proposed use is not similar but rather more compatible with the uses permitted by the by-law and the eventual desired character of the neighbourhood. Perhaps the tire manufacturer finds a buyer who wants to use the building as a warehouse. The owner must apply to the committee for permission stating that this would be more compatible because there would be no on-site manufacturing and traffic volumes for pick-ups and deliveries would be no greater than at present. It would be the committee's responsibility to decide if the intended use would be more compatible with the ultimate desired character of the neighbourhood.

Expansion privileges after change in use — If this change in use is approved, the warehouse would be a legal non-conforming use but it could still be expanded subject to the approval of the committee. The warehouse owner could apply to the committee for an addition because as previously indicated, the Act provides for expansion of approved uses which are similar or more compatible with the uses permitted in the by-law.

By-law interpretation — Some by-laws, especially older ones, are written in general terms. They contain no list of specific permitted uses. Such a by-law may state, for example, that certain lands can be used for industrial purposes. It does not provide details regarding the types of industrial uses. The building inspector must decide whether a given proposal complies with the zoning by-law, i.e. is it an industrial use? In some cases, he may refuse to issue a building permit for a proposal because he is uncertain about its compliance with the by-law, or he may ask the property owner to apply to the committee of adjustment for an interpretation. The committee of adjustment will determine if the proposed use complies with the intent of the by-law. If the application is approved by the committee of adjustment then a building permit can be issued (section 44(2)(b)).

FIGURE 4

APPLICATIONS MADE UNDER SECTIONS 44(1), (2) AND (3) OF THE PLANNING ACT — CHRONOLOGY



5 THE OPERATIONAL FRAMEWORK

There are uniform standards for the operation of committees of adjustment. Some of the reqirements are set out in the Planning Act, 1983. The rest are in Regulation 447/83, the rules of procedure for minor variance applications. These rules are made under section 43(11) of the Planning Act.

Between the time an application is received and a decision on it is finalized, a number of events and considerations must take place. Figure 4 presents this information in chart form.

The Application

The Application Form

The required application form is set out in Form 1 of the rules of procedure. Each committee should have applications printed and available to individuals who request them.

The questions contained in Form 1 should be asked. However, the committee can add other relevant questions to the form if it finds that local circumstances warrant additional information. The committee may also attach information sheets regarding its requirements or schedule eg. dates for committee hearings and deadline dates for submitting applications for different hearings. Where the application involves a non-conforming use, questions 12 to 16 are very important. The secretary-treasurer should ensure that these questions are answered. This information is vital in determining if the existing use is a legal non-conforming use.

The secretary-treasurer should also make sure:

- the application form has been fully completed;
- the sketch map is acceptable;
- as many copies of the application as the committee considers necessary have been submitted. (This requirement is in the rules to save the committee copying costs);
- all necessary information including, for example, the owner's authorization, has been submitted.

The Sketch Map

The rules of procedure state that the applicant must attach a copy of the plan or sketch map to each copy of the application submitted.

Importance of good sketch maps — A committee needs a clear and complete sketch in order to properly evaluate an application. If there are serious problems with boundaries, orientation and scale, the committee can require that the sketch be prepared by an Ontario Land Surveyor. The committee can also require a plan signed by an Ontario Land Surveyor. While the rules of procedure permit this requirement, the committee should use it only where absolutely necessary, since it may cost the applicant a significant amount of money.

A sketch map such as the one shown in Figure 5 will be adequate in many cases. In this instance, the application is for a reduction in the rear yard requirement from 7.5m to 7.0 metres to permit the construction of an addition to the existing residence.

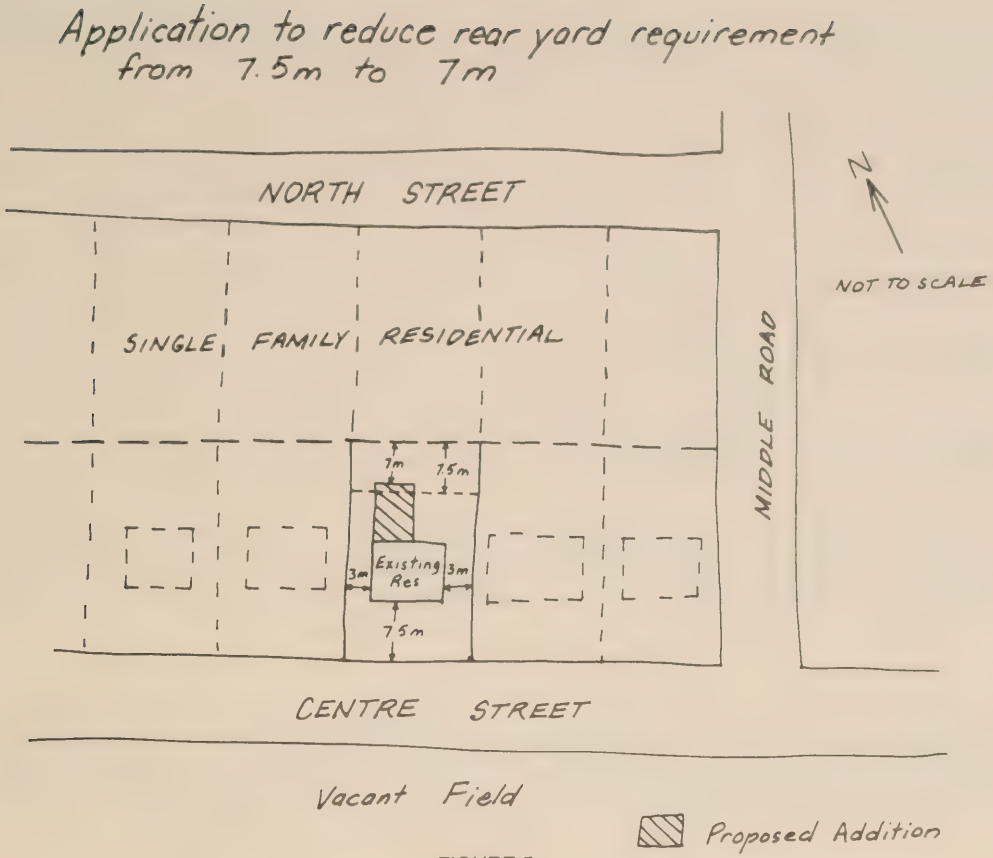


FIGURE 5

However, there are other instances where an accurate survey is preferable. Suppose an application is for a variance from the 2.5 metre side yard requirement. The applicant's building will encroach 0.6 metres into that side yard. He applies for a 0.6 metre variance using a sketch map. It is approved but when he gets the actual survey done he finds he will encroach 0.7 metres. In this case, he still will not be able to get a building permit. His minor variance was for 0.6 metres, not for 0.7 metres. He will have to reapply to the committee for another variance. A lot of time and expense could have been saved if the property was surveyed in the first place and an accurate application made to the committee.

The Filing and Record System

Technical requirements — There are several requirements for filing and record keeping. First, section 43(10) of the Planning Act stipulates that the secretary-treasurer must keep on file minutes and records of all applications and official business of the committee. Section 7 of the rules of procedure (Regulation 447/83) provides that where the office of the secretary-treasurer is vacant or the secretary-treasurer is unable to carry out his duties another person authorized by the committee of adjustment should attend all meetings and hearings and keep minutes and records.

Section 3 of the rules of procedure indicates two specific requirements for record keeping:

Receipt date — The secretary-treasurer must note the date of receipt of each copy of the completed application. The date helps in arranging hearings, since all applications must be heard within 30 days of their receipt.

Numbering of applications — Committees must use a specific numbering system for minor variance and non-conforming use applications. Applications must be prefixed with the letter "A" and numbered consecutively, beginning with "1" at the beginning of each calendar year, followed by an oblique stroke and the last two digits of the year. For example, A/15/84 refers to the 15th submission in the year 1984.

Committees can also use other numbering systems for in-office filing purposes. However, all committees must use the numbering system prescribed for applications in the rules of procedure.

Organizational aids — Other record keeping depends on the size of the committee's operation. There are no prescribed rules — it is up to the committee to decide what is appropriate. Here are some ideas that may be adaptable to your circumstances:

- It is helpful to have a separate file folder for each application. Papers should be clipped inside so they will not be lost.

- If your volume of applications is heavy, you may need an index to your applications, similar to the one shown in Appendix II. Such an index is handy for telephone calls or to check for duplicate applications.

- You may decide on a summary sheet to be kept at the front of each application. It is again helpful for telephone calls. But it does require work to keep it up to date. (See Appendix III for a sample summary sheet).

Fees

An application fee — This fee may be charged if this is indicated in a municipal by-law passed under section 68 of the Planning Act. Under the Act a committee of adjustment may also reduce the amount of, or waive the requirement for, the payment of a fee if it is satisfied that it would be unreasonable to require the fee established by the by-law.

Lot inspection fee — Under the Environmental Protection Act, health units (and other delegated authorities under Part VII of that Act) can charge fees for minor variance applications involving *private* sewage systems. These fees allow the delegated authority to recover the cost of inspecting the site of such applications. Fees are *only* payable to the delegated authority if the committee of adjustment requests their comments on applications. No fees are charged if applications are inadvertently circulated and it is clear to the delegated authority that there is no need to inspect the site for existing or proposed private sewage systems.

Section 71(4) of the Environmental Protection Act prevents a committee from approving applications until it is satisfied that any required fees have been paid to the delegated authority. The committee can assume that any required fee has been paid if it receives a comment on an application from the delegated authority because the Ministry of the Environment has asked authorities to provide comments only after they receive the fee. A committee should confirm whether the delegated authority has set a fee for minor variance applications in the municipality. If there is a fee, the committee should consider, in collaboration with the delegated authority, ways of informing applicants of the following:

- the existence and amount of the fee;
- how to pay the fee to the health unit; and
- the need to pay the fee before the committee can decide the application.

The application form or a separate sheet (for applicants) could be the method of providing this information.

In any event, working with the health unit or other authority on this issue will ensure convenient administration for all the parties in the process.

Notice and Site Visit

Notice of hearing and circulation — Under section 44(4) of the Planning Act, a completed application must be heard within thirty days of receipt by the secretary-treasurer. The Act also requires the committee to give notice of the hearing of an application in the manner and to the persons prescribed in the rules of procedure.

Period of notice — The rules of procedure make the committee responsible for giving the required notice at least 10 days before the hearing.

Manner — No specific manner of notice is required. Instead the committee, through the secretary-treasurer, gives the notice in such manner as it considers proper.

Information — The notice must contain the *time* and *place* of hearing and a brief explanation of the *nature of the proposal.*

Persons and agencies — The list of those to be notified is detailed in the rules of procedure and discussed in "Guideline 5: Working with the New Regulations". They are as follows:

- the applicant;
- each person shown in the application to be an encumbrancer of the land that is the subject of the application (encumbrancers are those who have an interest in the title to land (e.g. mortgagees) rather than those whose interest is restricted to the use of the land (e.g. lessees));
- to the senior planning officer of the upper tier municipality (eg. county, district, metropolitan or regional municipality). Where there is no such officer, then notice should be given to the chief administrative officer or, if this post does not exist, to the clerk of the upper tier municipality. The committee need not notify any officer who indicates in writing that he/she does not wish to receive notice of applications.
- all assessed owners of land within 60 metres of land that is the subject of the application. In the case of a condominium located within 60 metres of land, notice may be given to the condominium corporation instead of all assessed owners.
- any other person, local, provincial or federal agency that the committee determines should receive notice.

The rules of procedure allow a committee to direct that the area of notification be reduced to thirty metres if the application is for a minor variance under section 44(1) of the Act and the zoning by-law zones the subject area for single family, semi-detached or duplex housing.

The site visit — In those instances where the committee determines that a site visit is desirable, all members of the committee participating in the decision on the application should receive the same information on the visit. They should make the visit at the same time, in the presence of all interested parties. Alternatively, the secretary-treasurer may make the visit and provide a report on the site visit to all members.

The Hearing

The hearing of an application is affected by these procedural requirements under the Planning Act and the rules of procedure:

30 day time limit — the hearing must be held within 30 days of receipt of the completed application (section 44(4) of the Act).

Public hearing — The hearing must be public and anyone who wishes to attend and/or make representation may do so (section 44(6)).

Quorum — In a committee of 3, 2 members form a quorum; in a committee of more than 3, then 3 is a quorum (section 43(5)). As long as there is a quorum, the committee can carry on.

Oaths — Oaths may be required and made at the discretion of the chairman (section 44(7)).

Adjourned hearing — If the committee does not have full information and needs more time to obtain it, the hearing may be adjourned and a decision on the application reserved (section 44(6)).

Where the hearing is adjourned, the committee should note the requirements in the rules of procedure for notice of the next hearing. If the chairman of the committee knows the time and place, he should announce it publicly at the meeting. If it is yet to be determined, he should state that the secretary-treasurer will notify those who leave their names and addresses with him.

The Statutory Powers Procedure Act — In addition to the Planning Act, committees of adjustment are also subject to the requirements of the Statutory Powers Procedure Act, R.S.O. 1980. This Act sets certain rules for hearings, the outcome of which may affect the legal rights of individuals. It formalizes certain principles of natural justice to ensure hearings are fairly conducted.

Secretary-treasurers should become familiar with the effect of this Act on the operation of their committee. Copies are available by mail through:

Ontario Government Bookstore
880 Bay Street
Toronto, Ontario
M7A 1N8

The price is $1.50, payable in advance to the Treasurer of Ontario.

The requirements of the Statutory Powers Procedures Act are, in certain ways, similar to the requirements for committees of adjustment under the Planning Act. The requirements of both Acts should be met. The following are some of the provisions of the Statutory Powers Procedure Act relevant to a committee of adjustment. Where the same or similar provision is found in the Planning Act or the rules of procedure, this information is shown in brackets. For the exact requirements, reference should be made to the statutes themselves.

- Reasonable notice of hearing must be given (the rules of procedure state not less than 10 days).

- The notice of hearing must contain the time, place, and purpose of the hearing (the rules of procedure also contain this requirement).

- The notice of hearing must also contain a reference to the statutory authority under which the hearing is to be held which, in this case, is section 44(1), (2) or (3) of the Planning Act.

- The notice of hearing must contain a statement that, if a party who is notified does not attend the hearing, the committee can proceed and the party is not entitled to any further notice.

- The hearing must be public (section 44(6) states that the hearing must be public).

- The decision must be in writing and should include reasons if the applicant requests it (section 44(8) states that the decision must be in writing and include reasons).

- The decision must be mailed to all parties who took part in the hearing (section 44(1) indicates to whom the notice must be mailed. This includes parties at the hearing who requested notice of the decision).

The Decision

Written decisions only — To fulfill the technical requirements (section 44(8)), the decision must:

- be made by a majority of the members hearing the application;

- be in writing;

- set out the reasons for the decision; and

- be signed by members who concur with the decision.

A sample decision is shown in Appendix IV. The committee does not have to make the decision at the hearing. In many cases it is perhaps better to make the decision after giving some thought to the information presented at the hearing.

Reasons required — A committee must give careful attention to the written reasons required in its decision. The provision of sound, well-considered reasons will often satisfy an applicant or someone else who without knowing such reasons, may be inclined to appeal the decision.

Many decisions simply state that the application is approved because it maintains the intent of the zoning by-law (and the official plan) and is desirable for the appropriate development of the land. A more comprehensive decision would attempt to state *how* and *why* the intent is maintained.

For example, a proposed addition may encroach into the rear yard requirement of the by-law. The committee feels that because of the large size of the abutting lots, the proposal will not alter the character of the neighbourhood. The decision should include this information.

Conditions of approval — the committee may set conditions and time limits in its decision to approve an application (section 44(9) of the Planning Act). If the committee does not set a time limit, its approval does not lapse.

Perhaps the committee has an application for an office building that will not have enough side yard to meet the by-law requirements. The committee feels that the encroachment is minor but would like to ensure privacy for the adjacent uses. In this case, they could decide to approve the application subject to a 1.82 metre high wooden privacy fence being erected along that side of the property.

Enforcement of conditions — There may be some concern about the enforcement of conditions. However, if the applicant fails to meet any of the conditions imposed by the committee, he no longer has valid permission. Since the validity of the committee's decision is dependent on the fulfillment of *all* conditions, enforcement is not a serious concern.

There are several ways to help in the enforcement of conditions. One and perhaps the most important is to put a time limit on their fulfillment. In the previous example, the committee could specify that the fence must be built within six months or within some other stated period prior to the issuance of the building permit. The committee can also stipulate that a condition be fulfilled to the satisfaction of a municipal department or official since this ensures that the applicant conforms to the requirements of the municipality. An additional method is the use of agreements. Such agreements must be made between the property owner and the municipality since the municipality, unlike the committee of adjustment, is a corporate body which can enter into such agreements.

Notice of decision — Within 10 days of the date of the decision the secretary-treasurer must send by mail a certified copy of the decision indicating the last day for appealing to the Ontario Municipal Board to:

- the applicant;
- the minister, if he requests it by registered mail; and
- any person who appeared in person or by counsel at the hearing and filed with the secretary-treasurer a written request for such notice.

Where no appeal lodged — The decision of the committee becomes final and binding if, after 30 days, no appeal of the decision to the Ontario Municipal Board has been received by the secretary-treasurer (section 44(14)). In such instances, the secretary-treasurer must then notify the applicant and file a certified copy of the decision with the clerk of the municipality.

Appeals to the Ontario Municipal Board

Who can appeal — Once the notice of decision has been sent out, the decision of the committee may be appealed to the Ontario Municipal Board. The appeal may be made by the applicant, the Minister of Municipal Affairs and Housing, the municipality or any other person who has an interest in the matter (section 44(12)).

Notice of appeal/fee — The notice of appeal must state the objection and the reasons for it. It must be personally served or sent by registered mail to the secretary-treasurer of the committee. The fee, prescribed by the Ontario Municipal Board, must be enclosed. The current appeal fee is $100 for each separate appeal.

30 Day appeal period — The appeal must be lodged within 30 days after the notice of decision has been sent. Note that section 44(10) states that the notice of decision must contain the last date of appeal to the Ontario Municipal Board. The secretary-treasurer should wait 2 or 3 days beyond the appeal period for receipt of any appeals made within the prescribed 30 days but delayed by slow delivery of registered mail.

Committee's jurisdiction after appeal — Once the appeal is lodged with the secretary-treasurer, the committee has no further jurisdiction. The secretary-treasurer must forward by registered mail to the OMB all documents filed with the committee on the appealed matter together with other information required by the OMB. The material to be forwarded to the OMB is indicated in the board's form (Appendix V).

The Ontario Municipal Board Hearing

Hearing — Where an appeal is made to the board, it is required to hold a hearing, except where the persons who appealed withdraw the notice of appeal or where the board is of the opinion that the objection to the decision as set out in the notice of appeal is insufficient. In the latter case, the board may dismiss the appeal without holding a full hearing. However, before it dismisses the appeal it must notify the appellant and afford him an opportunity to make representations on the merits of the appeal.

In the former case, after being contacted by the board, the decision of the committee is final and binding and the secretary-treasurer files a certified copy of the decision with the clerk and notifies the applicant.

Notice of hearing — The Ontario Municipal Board notifies the applicant, the appellant and the secretary-treasurer of the date for a hearing. Additional notification is at the board's discretion (section 44(16) of the Planning Act).

Nature of the hearing — The hearing is de novo. The Ontario Municipal Board is not judging the adequacy of the comittee's decision but rather is holding an entirely new hearing. For that reason the committee does not have to defend its decision nor is it required to be an active participant.

Council's involvement — In some cases, the municipal council, as the appellant, may send a representative before the board to give evidence. In other appeals, council may send a representative to the hearing to support or oppose the application.

The Ontario Municipal Board Decision

Decision — When it conducts an appeal hearing, the board issues two documents. One is the *Decision;* the other is the *Board Order.* There are two types of decisions. One is a written decision prepared when the board reserves its decision at the hearing. The second is a memorandum of an oral decision putting in writing the oral decision given at the hearing. A written decision is usually sent to those who appeared at the hearing and anyone else who requests it. A memorandum of oral decision is only sent out on request.

The decision will contain any conditions that must be fulfilled prior to the Board Order being issued. If an appeal does not come to a hearing, i.e. is withdrawn, no decision is issued.

The Board Order is issued for all appeals lodged with the board which are not withdrawn by the appellant. It represents the final disposition of the appeal by the OMB. If conditions are attached to a decision of the board, they must be fulfilled before the order is issued. If an appeal is withdrawn by the appellant the board does not issue an order. Instead the secretary of the board notifies the secretary-treeasurer of the committee of the withdrawal of the appeal.

Committee's involvement — The board sends a copy of its order to the secretary-treasurer of the committee and the appellant. The secretary-treasurer in turn must file a copy of the order with the municipal clerk (section 44(20)). The copy of the order received by the secretary-treasurer from the board should be filed on the appropriate committee file and the file closed.

Applicant's involvement — The board is also required to send a copy of the order to the applicant. Where the application has been granted by the board, it is in the interest of the applicant to retain a copy of the order for his/her records.

6 THE PLANNING FRAMEWORK

The Value of Policy Information

A committee of adjustment has a highly specialized function. To do its job effectively, a committee should have as much information as possible at its disposal. Part of the background information that committee members should be aware of is the planning policies which affect a municipality.

Policy statements — Under section 3 of the Planning Act, 1983 the Minister of Municipal Affairs and Housing, either alone or with other ministers, may issue policy statements approved by Cabinet on municipal planning matters of provincial interest. Each municipality will receive notice of the issuance of such statements. In turn, each municipality must give notice to any local board it considers has an interest in the statement. This should include the committee of adjustment. The Act requires that all agencies, including the committee of adjustment, have regard to policy statements in exercising any authority that affects planning matters. The committee is obliged to review all applications in relation to these statements whether or not the official plan in effect has been amended to take the statements into account.

The official plan — The main planning policy document for a municipality is its official plan. It is the plan for the physical development for the area that it covers. If the municipality does not have an official plan, it may have some type of land development policies. The committee should check with the municipal clerk's office to obtain copies of all policy documents. Committee members should acquaint themselves with the land use policies in effect for the municipality.

Framework for decisions — While a committee of adjustment that considers only minor variance and non-conforming use applications does not have to make detailed policy decisions, an understanding of the policy framework is still essential. Applicable policies provide a basis for consistent decisions. If the policy states that a neighbourhood is to be low density single family residential neighbourhood, then the committee has to abide by that policy.

Evaluating Minor Variance Applications

Committees of adjustment considering minor variance applications have no absolute tests to guide their assessment. Section 44(1) of the Planning Act states that the authorized variance from the zoning by-law should:

- be minor;
- be desirable for the appropriate development or use of the land, building or structure;
- maintain the general intent and purpose of the zoning by-law; and
- maintain the general intent and purpose of the official plan, if any.

What is Minor?

Minor is a relative term and must be interpreted in the particular circumstances involved together with the other three factors just mentioned. These three factors could be dealt with in reverse order in certain instances.

There is no definition as to what constitutes a minor variance and what does not. In each specific situation, the actual on-ground circumstance determines whether or not the variance is minor.

A minor variance cannot be mathematically calculated. The same variance may be minor in one situation and major in another. For example, a property owner may wish to construct an addition to his single family dwelling for a main floor laundry room. The addition will encroach 1 metre into the rear yard setback requirement of 7.5 metres.

On the other hand, imagine a situation where an addition will encroach the same 1 metre but is for a home occupation use such as a beauty salon. In this case there could be concerns about frequency of traffic, parking and the setting of a precedent for similar additions. In these two cases, the requested variances are identical mathematically. They may both maintain the intent and purpose of the zoning bylaw and the official plan. However, the second one would have considerably greater impact on the surrounding uses and could be regarded as not being desirable for the appropriate development or use of the land. It is the committee's responsibility to decide if this is a minor variance.

Desirable Development/Use

The issue of desirability is complex. One aspect is the effect of the minor variance on adjacent neighbours. For example, if the application is to reduce the required number of parking spaces for a specific proposal, it could result in more on-street parking and a problem for the adjacent property owners. The committee should assess this aspect of the proposal before making its decision. This question of desirability can be more general. Is it desirable to allow this minor variance from the point of view of its impact on the municipality as a whole? Minor variances should not set precedents. The approval should provide relief from provisions of the by-law because of a hardship situation created by the problems indicated in a given application.

For example, suppose the committee approves an application for two semi-detached dwelling units on a lot with a 21.5 metre frontage. The approved by-law standard is 24.5 metres. If this were a situation where one 21.5 metre lot happened to exist in the middle of a built-up neighbourhood, then the committee might be justified in granting this variance.

On the other hand, suppose this 21.5 metre lot is located in an area of many 21.5 metre lots that could be similarly developed. In such circumstances, if the committee were to grant several minor variances for semi-detached dwellings on 21.5 metre lots, it would be tampering with the intent of the by-law. Council has established an approved standard of 24.5 metres. The committee of adjustment is altering council's approved policy by permitting several variances from that standard.

If the by-law was poorly drafted and does not recognize the municipality's large number of 21.5 metre wide lots that could be successfully developed with semi-detached residences, then the zoning by-law may have to be amended to make it more realistic. The final decision on whether or not the by-law should be changed must be made by council. If the committee, in the course of carrying out its duties, identifies such a problem, it should direct council's attention to it. The committee should not, however, attempt to correct zoning by-law oversights through its decisions.

Maintaining the Intent/Purpose of the Zoning By-law

Committee decisions should maintain the intent of the zoning by-law. Standards in zoning by-laws are not arbitrary. They are established for specific reasons. Committees of adjustment alter these standards for individual lots through their decisions. It is, therefore, important for committee members to understand why these standards were enacted in the first place.

For example, suppose the committee is assessing a proposal to reduce the side yard requirement of a residential lot. The committee must, first of all, determine what the intent of the by-law is in establishing the side yard requirement.

One possible reason is visual amenity. Spacing between houses is more attractive than houses crowded together. It also provides separation for privacy, freedom from sun shadows, fire protection and access to the rear yard. The committee must decide whether the variance applied for will compromise the basis for a side yard requirement. If the committee feels that the reduction would not be within the intent of the by-law, the application should be refused.

Maintaining the Intent/Purpose of the Official Plan

Committee decisions should maintain the policy directions established in the official plan. This is especially important where the variance is to a by-law that does not implement the current official plan.

Perhaps the municipality has had a zoning by-law for a number of years. More recently a new official plan has been prepared and approved. That official plan has not been implemented by a new zoning by-law. As a result, building permits are issued in accordance with the standards and permitted uses in the old by-law.

Suppose, as shown in Figure 6, an individual wishes to build a shopping centre on B street but cannot meet the minimum setback requirement in the zoning by-law of 7.5 metres. He applies to the committee of adjustment for a variance to permit a reduction of the setback requirement for this specific proposal to 7.0 metres. The committee, in reviewing this application, notes that it is an official plan policy to eventually widen B street by 1 metre and so even more of the setback would be eliminated. The eventual setback would be 6 metres. In this case to grant minor variance would not be in keeping with the intent of the official plan.

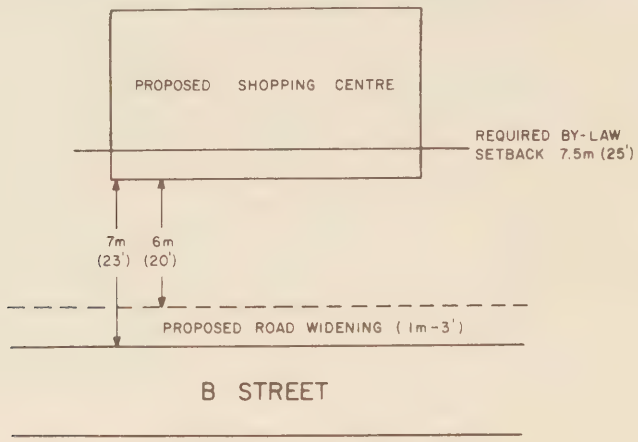


FIGURE 6

Minor Variance then Consent . . . or Vice Versa?

Should the minor variance approval precede the consent, or should the consent approval come first? There is no hard and fast rule. Committees should, however, be aware that consent approval can be made conditional on the minor variance being obtained.

For example, the owner of the lands shown in Figure 7 has a large lot and wants to create two lots and sell one for a single family residence.

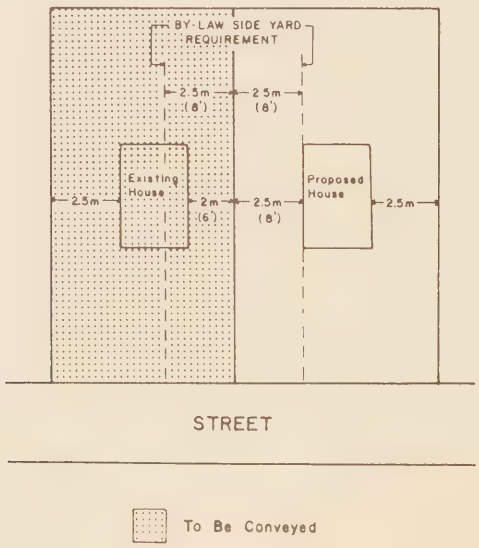


FIGURE 7

The official plan designates the area for residential development. The zoning by-law zones it for single-family residential use. There is one problem. One lot will not meet the required side yard requirement of 2.5 metres. How should this situation be handled?

If both the consent and variance are handled by the same committee, then both applications can be considered together, simplifying the situation. On the other hand, if the proposal is located in a municipality where consent is handled by another authority, the consent approval could then be made conditional upon the committee of adjustment approving the minor variance. The committee of adjustment can then consider the minor variance application.

In this situation, it is important for the committee not to grant the minor variance simply because the consent has been granted.

The application should be evaluated objectively. If there is a feeling that the minor variance is not in keeping with the intent of the by-law, then the minor variance should not be approved. Since the condition for the consent has not been fulfilled, the consent decision could not be finalized and the proposed lot referred to in the example cannot be created.

Minor Variances from Proposed By-laws

Council must have passed a zoning by-law before it can establish a committee of adjustment. While the committee can be established before the by-law comes into force we suggest the committee not grant any approvals until after the by-law is in force because, if the by-law is appealed to the Ontario Municipal Board, the subsequently approved by-law may vary substantially from that adopted by council.

The Minor Variance as a Special Privilege

A minor variance is a special privilege. It can reduce the inflexibility of the zoning by-law so that undue hardship does not result. There should, however, be a valid reason why the by-law requirements cannot be met.

If a property owner cannot provide the additional off-street parking required by the by-law, his land should not necessarily be prevented from developing. That is, provided of course, that no problems will result from reducing that requirement. On the other hand, if the proposal can be changed in some way, perhaps by making the building smaller, then the minor variance should not be granted.

Suppose a property owner requests a minor variance because it would be cheaper for him to build if he obtained a minor variance. He is required, for example, to provide a 6 metre wide buffer between his use and the adjacent use. He wishes to reduce this buffer to 3 metres so that he can maximize the buildable area of the lot. This is not a legitimate request for a minor variance. In this situation, the applicant can meet the terms of the by-law.

It is also not the function of the committee to legalize by-law contraventions. A property owner, either deliberately or without knowing it, may put in a foundation too close to the rear lot line. He may then apply to the committee for a minor variance. The committee should not grant the variance simply because the building is already there. The application should be evaluated as if the building was a new use and if it cannot be justified, it should not be approved.

Evaluating Applications Involving Legal Non-Conforming Uses

The basic principle behind assessing these applications is to prevent hardship to legal non-conforming uses established before the existing by-law was passed. Even though a particular use does not meet the long term planning objectives of the municipality, it should not be penalized unduly.

Determining if the Use is Legal Non-Conforming

The committee must first determine whether or not the application is for a legal non-conforming use. The application form prescribed by the rules of procedure has specific questions to aid the committee in establishing the nature of the use. Question 13 asks for the construction dates of the existing buildings. Question 16 asks how long the present uses have been on the site. The use is legal non-conforming only if:

- the building was constructed in accordance with all the regulations in effect when it was built;

- the present use is the same as that prohibited by the zoning by-law the day the by-law was passed or the present use was previously permitted by the committee of adjustment; and

- the present use has been continuous from the date of its legal commencement to the date of application to the committee.

Maintaining the Intent of the Zoning By-law

Once the legitimacy of the application is established, committee members must evaluate certain aspects of the proposal. In doing so, the committee members must remember that eventually the use should cease to exist. That is why no new separate buildings can be constructed. It is at this point that committee members may wish to look at the official plan to understand the municipality's long term goals for the area.

In reviewing an application involving a non-conforming use, the committee should keep the municipal zoning by-law in mind. In most cases, that by-law will contain standards for that type of use. For example, suppose the non-conforming use is a commercial building. The zoning by-law does not permit commercial uses in this location. It does, however, contain standards for commercial development.

Even though the use is non-conforming, it should, if possible, still be subject to the by-law standards for commercial uses. If the by-law has requirements about accesses or buffering of commercial uses, the committee should try to apply them to the site. This can be done through the use of conditions.

Determining if the Use is Similar or More Compatible

When the committee is evaluating an application for a similar or more compatible use, it must ensure that the proposed use is similar in purpose to the existing use or more compatible with the uses permitted in the by-law. Committee members should consider, for example:

- traffic volumes
- parking requirements
- hours of operation
- noise

of the proposed use and how it compares to the existing use. The committee should also look at the official plan to determine what the eventual desired character of the neighbourhood will be.

The Use of Conditions

The committee does not have to approve the application as submitted. Section 44(9) allows a committee to attach conditions to the approval. If the committee can improve an application through the use of conditions it should do so.

7 ADDITIONAL INFORMATION

The Ontario Association of Committees of Adjustment and Consent Authorities (OACA)

This is an organization established by committees of adjustment and consent granting authorities to facilitate mutual contact and benefit among their members. The Association regularly publishes a newsletter, containing information of interest to committee members. It also sponsors a seminar once a year primarily to assist secretary-treasurers, and an annual conference for all members. Membership inquiries should be addressed to the secretary-treasurer of the Association in office at the time of this guideline's publication:

Ontario Association of Committees of Adjustment and Consent Authorities (OACA)
% Mrs. T. Arneill, Secretary-Treasurer
Committee of Adjustment
Guelph City Hall
59 Carden Street
Guelph, Ontario
M1H 3A1

Municipal Conflict of Interest Act, 1983

A member of a committee of adjustment may have direct or indirect financial interest in a matter before the committee. In such cases, the affected member must adhere to the requirements of the Municipal Conflict of Interest Act, 1983 by doing the following before consideration of the matter at the meeting:

- stating interest *and* disclosing the general nature of the interest;
- abstaining from discussion or the vote on the matter; and
- not attempting before, during or after the meeting to influence the vote or decision on the matter.

Compliance — The onus for compliance with this Act rests with the members only. It is not the responsibility of council, the committee of adjustment, secretary-treasurer of the committee, the municipal solicitor or any member of the municipal staff. Members should therefore be familiar with the detailed requirements of the Act.

Quorum — The Municipal Conflict of Interest Act requires a quorum of no less than two members in instances where several members have a conflict of interest. It supersedes the requirements for a quorum for a committee of adjustment under section 43(5) of the Planning Act, 1983 if members have a conflict of interest. Where only one member is not affected by a conflict of interest, the committee may apply to a judge for an order authorizing the committee to vote on the matter out of which the conflict of interest arises. The judge may make a declaration that the requirements for disclosing interest and withdrawing from the proceedings do not apply. The committee may then consider, discuss and vote on the matter subject only on such conditions and directions as the judge may consider appropriate and order. If the judge cannot make a declaration it is possible that the requirements of the Municipal Conflict of Interest Act may have been contravened.

APPENDICES

APPENDIX 1

SAMPLE BY-LAW TO CONSTITUTE AND APPOINT A COMMITTEE OF ADJUSTMENT

(Name of Municipal Corporation)

By-law No. _____

Being a by-law to constitute and appoint a Committee of Adjustment for the Municipality (village, township, town, city) of.....

Whereas it is deemed expedient to constitute and appoint a Committee of Adjustment, as provided for in the Planning Act, 1983, section 43.

Now, therefore, the Council of the Corporation of
.....

enacts as follows:

(1) The Committee of Adjustment for the (name of municipal corporation) is hereby constituted and the following persons are hereby appointed as its members for the term ending on the date shown for respective members, or until their successors are appointed.

(1) _____ to hold office until ....., 19.....

(2) _____ to hold office until ....., 19.....

(3) _____ to hold office until ....., 19.....

Read a first and second time this ..... day of ....., 19.....

..... Clerk ..... Reeve (or Mayor).

Read a third time and finally passed on this ..... day of ....., 19.....

..... Clerk ..... Reeve (or Mayor).

APPENDIX II

SAMPLE APPLICATION INDEX

RECORD OF MINOR VARIANCE APPLICATIONS

APPLICANT's NAME	"A" NO.	DATE OF DECISION	GRANTED	REFUSED	APPEALED	COMMENTS

APPENDIX III

SAMPLE SUMMARY SHEET

SAMPLE SUMMARY SHEET — MINOR VARIANCES

1. a. Committee file no. .....
   b. Committee application no. .....
   c. Hearing date .....
   d. Date of receipt of *completed* application .....
   e. Checked by .....
   f. Zoning by-law no. ..... Sections .....
   Zone .....
   g. Official Plan designation .....
   h. Relevant Provincial Policy Statement .....
   i. Site Visit carried out:
   Yes ( ) No ( )
   j. Consent needed:
   Yes ( ) No ( )
   k. Authorization of owner received (if required) ( )

2. Date notice of hearing sent to those parties under the Rules of Procedure .....

3. Date notice of decision sent under subsection 44(10) of the Planning Act .....

4. Type of relief applied for

Side yard	( )	Change of building size	( )
Rear yard	( )	Change of building details	( )
Non-conforming	( )	Home Occupations	( )
Lot width	( )	Change of accessory use	( )
Lot area	( )	*Other (specify)	
Lot depth	( )		
Lot coverage	( )		
Floor area ratio	( )		
Parking	( )		
Height	( )		
Set back	( )		
Zone extension	( )		

*Relief to other aspects of a section 34 (zoning) or 37 (interim control) by-law, or any specified by-law that implements an official plan which council authorizes the committee to vary.

APPENDIX IV

SAMPLE DECISION

(Name of Municipal Corporation)
.....
Committee of Adjustment Decision

Application No. .....
Date of Hearing .....
Date of Decision .....
In the matter of section 44 of the Planning Act, Zoning By-law No. ..... and an application for ( ) minor variance; ( ) permission to allow .....
.....
.....
.....
Location of the property: Lot ..... Con. .....
Street Address .....

The request is hereby ( ) refused or ( ) granted subject to the following conditions:

1. .....
2. .....
3. .....
4. .....

Reasons: .....
.....
.....

Concur in the Decision:

..... Committee Member
..... Committee Member
..... Committee Member
..... Committee Member

NOTICE OF LAST DATE OF APPEAL

Notice is hereby given that the last date for appealing this decision to the Ontario Municipal Board is ..... 198.....

APPENDIX V

Ontario Municipal Board

Ontario

Minor Variance Appeals

Material to be forwarded to the Ontario Municipal Board by the Secretary-Treasurer of the Committee of Adjustment with a notice of appeal under subsection 44(13) of the Planning Act, 1983.

Municipality: _____

Committee
Submission No.: A- _____
Variance from
Zoning By-law No.: _____

Please check the appropriate box and attach all necessary material to this form:

Attached	Does Not Apply		
☐		1.	Notice of appeal, including reasons in support of the objection to the decision.
☐		2.	Board fee for each separate appeal payable to the Treasurer of Ontario.
☐		3.	Copy of application for minor variance.
☐	☐	4.	Authorization if application made by other than the owner.
☐	☐	5.	All plans and sketches before the Committee.
		6.	Names and addresses of the following:
☐	☐		(a) All legal counsel, persons, officials and agencies who appeared before the Committee.
☐	☐		(b) All legal counsel, persons, officials and agencies who made written submissions to the Committee.
☐		7.	Decision of Committee with written reasons.
☐		8.	Minutes of Committee hearing.
☐	☐	9.	Copy of written submissions to the Committee by persons, officials and agencies.
☐		10.	Last date for filing notice of appeal to Secretary-Treasurer.
☐		11.	Date notice of appeal delivered by hand or mailed to Secretary-Treasurer.
☐		12.	Sworn declaration by the Secretary-Treasurer of compliance with subsection 44(10) of the Planning Act.

Attached	Does Not Exist		
		13.	Copy of relevant extracts from:
☐	☐		(a) Official Plan
☐			(b) Zoning By-law

Yes	No		
☐	☐	14	(a) Is this variance appeal connected with a consent application?
☐	☐		(b) Has a decision on the consent application been appealed to the Board? If so, please provide the following:

Name of Approval Authority: _____

Submission No.: B- _____ O.M.B. File No.: C- _____

Name of Secretary-Treasurer: _____ Phone No.: _____

Address: _____

Signature of Secretary-Treasurer _____ Date: _____

Mail completed form and material to:

Ontario Municipal Board
180 Dundas Street West
Toronto, Ontario
M5G 1E5

OM 029 (11/83)

For further information, contact any of the following offices of the Ministry of Municipal Affairs and Housing:

Community Planning Advisory Branch

Central Region
47 Sheppard Avenue East
2nd Floor
Willowdale, Ontario
M2N 2Z8
Telephone: (416) 224-7635
ZENITH 52650

South East Region
244 Rideau Street
3rd Floor
Ottawa, Ontario
K1N 5Y3
Telephone: (613) 566-3801
ZENITH 52650

North East Region
1191 Lansing Avenue
Sudbury, Ontario
P3A 4C4
Telephone: (705) 560-0120
TOLL FREE 1-800-461-1193

South West Region
495 Richmond Street
7th Floor
London, Ontario
N7A 5A9
Telephone: (519) 673-1611
TOLL FREE 1-800-265-4736

North West Region
435 James Street South
Thunder Bay, Ontario
P7C 5G6
Telephone: (807) 475-1651
ZENITH 52650

Plans Administration Branch — North and East

777 Bay Street
14th Floor
Toronto, Ontario
M5G 2E5
Telphone: (416) 585-6014

Plans Administration Branch — Central and Southwest

777 Bay Street
14th Floor
Toronto, Ontario
M5G 2E5
Telephone: (416) 585-6014

Local Planning Policy Branch

777 Bay Street
13th Floor
Toronto, Ontario
M5G 2E5
Telephone: (416) 585-6225

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Ontario
Ministry of
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Claude Bennett, Minister

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